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of certifying compliance with TAP requirements.

(c) Producers who do not meet all applicable requirements and obligations will not be eligible for payment.

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES—MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS

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AUTHORITY: 7 U.S.C. 7231–7237, 7931–7936, and 9031- 40, 15 U.S.C. 714b and c.

Subpart A—General

SOURCE: 67 FR 63511, Oct. 11, 2002, unless otherwise noted.

§ 1421.1 Applicability and interest.

(a) The regulations in this subpart are applicable to crops of barley, small and large chickpeas, corn, grain sorghum, lentils, oats, dry peas, peanuts, rice, wheat, wool, mohair, oilseeds and other crops designated by Commodity Credit Corporation (CCC). These regulations specify the general provisions under which Marketing Assistance Loans (MALs) and Loan Deficiency Payments (LDPs) will be administered by CCC. Additional terms and conditions are in the additional documents required to receive MALs and LDPs. In any case in which money must be refunded to CCC in connection with this part, interest will be due to run from the date of disbursement of the sum to be refunded. This provision will apply, unless waived by the Deputy Administrator, irrespective of any other rule.

(b)(1) The basic loan rates, the schedule of premiums and discounts, and

forms applicable to the MAL and LDP Programs for the commodities specified in paragraph (a) of this section are available in Farm Service Agency (FSA) State and county offices. The forms for use in these programs will be prescribed by CCC.

(2) LDPs will be available for unshorn pelts, hay and silage.

(c) MALs and LDPs will not be available for any commodity produced on land owned or otherwise in the possession of the United States if such land is occupied without the consent of the United States.

(d) Producers who produced eligible loan commodities are eligible for MALs or LDPs.

(e) Adjusted Gross Income (AGI) provisions specified in part 1400 of this chapter apply to this part.

[67 FR 63511, Oct. 11, 2002, as amended at 71 FR 32422, June 6, 2006; 74 FR 15649, Apr. 7, 2009; 80 FR 119, Jan. 2, 2015; 86 FR 70705, Dec. 13, 2021]

§ 1421.2 Administration.

(a) The MAL and LDP Programs will be administered under the general supervision of the Executive Vice President, CCC and will be carried out in the field by FSA State and county committees, respectively.

(b) State and county committees, and representatives and employees thereof, cannot modify or waive any requirement of this part, except as provided in paragraph (e) of this section.

(c) The State committee will take any required action not taken by the county committee. The State committee will also:

(1) Correct or require correction of an action taken by a county committee that is not in compliance with this part; or

(2) Require a county committee to not take an action or implement a decision that is not under the regulations of this part.

(d) The Executive Vice President, CCC, or a designee, may determine any question arising under these programs, or reverse or modify a determination made by a State or county committee.

(e) The Deputy Administrator for Farm Programs, FSA, may authorize State and county committees to waive or modify deadlines and other program requirements in cases where lateness or failure to meet such other requirements does not adversely affect the operation of the MAL and LDP Programs.

(f) A representative of CCC may execute MAL and LDP applications and related documents only under the terms and conditions determined and announced by CCC. Any document not executed under such terms and conditions, including any purported execution before the date authorized by CCC, will be null and void.

[67 FR 63511, Oct. 11, 2002, as amended at 74 FR 15650, Apr. 7, 2009; 80 FR 120, 130, Jan. 2, 2015]

§ 1421.3 Definitions.

The definitions in this section apply for all purposes of program administration. Terms defined in part 718 of this title and parts 1412 and 1425 of this chapter also apply, except where they conflict with the definitions in this section.

Administrative County Office is the FSA County Office where a producer's FSA records are maintained.

Basic loan rate means the loan rate established by CCC for a commodity before any adjustment for premiums and discounts.

Calling a loan is accelerating or moving forward the maturity date of an outstanding MAL. A MAL can be called when, as determined by CCC, the terms and conditions of the MAL note and security agreement are violated, a producer incorrectly certifies a loan quantity or makes any fraudulent representation with respect to obtaining a loan, removing or disposing of a farm-stored commodity pledged as collateral for a loan without authorization, to protect CCC's interest, or in emergency situations.

CCC means the Commodity Credit Corporation.

Charges means all fees, costs, and expenses incurred in insuring, carrying, handling, storing, conditioning, and marketing the commodity tendered to CCC for a MAL. Charges also include any other expenses incurred by CCC in protecting CCC's or the producer's interest in such commodity.

Chickpeas means any chickpea that meets the definition of a chickpea according to the Grain Inspection, Packers and Stockyards Administration (GIPSA), Federal Grain Inspection Service (FGIS).

(1) Small chickpea falls below a 20/64th sieve.

(2) Large chickpea stays above a 20/64th sieve.

CMA means a cooperative marketing association that is subject to regulations in Part 1425 of this chapter.

COC means the FSA county committee.

Commodity certificate exchange means the exchange, as provided for in §1421.111, of commodities pledged as collateral for a marketing assistance loan at a rate determined by CCC in the form of a commodity certificate bearing a dollar denomination.

Crop means with respect to a year, commodities harvested in that year. Therefore, the referenced crop year of a commodity means commodities that when planted were intended for harvest in that calendar year.

Current net worth ratio means current assets minus current liabilities, divided by current liabilities, based on the financial statement provided in connection with a DMA application or a recertification for DMA status.

Department means the United States Department of Agriculture.

Deputy Administrator means the Deputy Administrator for Farm Programs, Farm Service Agency (FSA) or a designee of that person.

DMA Service County Office is an FSA County Office designated by CCC to accept, process, and disburse bundled peanut MALs and LDPs to a DMA. In the absence of a centralized MAL and LDP processing system for peanuts, a service county FSA office is necessary for entering MALs and LDPs made by DMAs into CCC accounting systems.

Designated Marketing Association (DMA) means an entity, or a subsidiary thereof, that performs marketing functions for peanut producers and is designated to handle MALs and LDPs for them. A DMA is eligible to perform those functions only if the DMA meets the eligibility criteria set out elsewhere in this part.

Drawdown account is an account titled to the DMA at a financial institution and funded at the discretion of CCC for the purpose of allowing the DMA to advance funds to producers who have applied for MALs and LDPs before a subsequent MAL or LDP is made to the DMA by an assigned FSA county office.

Electronic warehouse receipt (EWR) means a receipt electronically filed in a central filing system by an approved provider as provided in an executed, ''Farm Service Agency Provider Agreement to Electronically File and Maintain Warehouse Receipts.''

FSA means the Farm Service Agency of the United States Department of Agriculture.

High moisture state means corn or grain sorghum having a moisture content in excess of CCC standards used to determine eligibility for MALs made by the Secretary.

Incorrect certification means the certifying of a quantity of a commodity for the purpose of obtaining a MAL or LDP in excess of the quantity eligible for such MAL or LDP or the making of any fraudulent representation with respect to obtaining MALs or LDPs.

Loan commodities means wheat, corn, grain sorghum, barley, oats, rice, soybeans, other oilseeds, peanuts, wool, mohair, dry peas, lentils, chickpeas, and other crops designated by CCC.

Loan deficiency payment (LDP) means a payment made in lieu of a MAL when the CCC-determined value, which is based on the current local price in a county, is below the applicable county loan rate. The payment is the difference between the two rates times the eligible quantity.

Loan settlement means farm stored commodities delivered to CCC and warehouse stored commodities forfeited to CCC, for the applicable crop years.

Locked in repayment rate means an announced repayment rate on a disbursed MAL that the producer has locked in for 60 calendar days. All locked in repayment rates expire within 14 calendar days before the loan maturity date. MAL can be repaid either at principal plus interest or the repayment rate in effect on the date the repayment is made. The repayment rate can

only be locked in one time for a designated quantity and, if multiple locked in repayment rates are in effect for quantities under MAL that have not had a locked in repayment rate, the oldest rate is always applied first.

MAL means marketing assistance loan.

Market loan gain is the loan rate, minus the repayment rate on loans repaid at a rate that is less than the loan rate. A producer's adjusted gross income must be below the limit as specified in part 1400 of this chapter to receive a market loan gain.

Medium grain rice for the purposes of this part includes both short and medium grain rice as defined by the U.S. Standards for Rice.

Mohair means the hair sheared from a live Angora goat. Mohair does not include pelts, or hides or mohair shorn from pelts or hides.

Oilseeds means any crop of sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, crambe, sesame seed, and other oilseeds as determined and announced by CCC.

Other crops designated by CCC means with respect to eligibilities for benefits under this part:

(1) Those crops harvested as other than grain, such as silage, haylage, earlage;

(2) Specific crops designated for grazing; or

(3) As otherwise designated by CCC.

Pulse crops means any crop of dry peas, lentils, and chickpeas as defined by CCC.

Recording FSA County Office is the FSA County Office that records eligibility data for producers designated as multi-county producers.

Rice means, unless otherwise noted, long grain rice and medium grain rice.

Secretary means the Secretary of the United States Department of Agriculture, or the Secretary's delegate.

Security for DMAs means a certified or cashier's check payable to CCC, an irrevocable commercial letter of credit in a form acceptable to CCC, a performance or surety bond conditioned on the DMA fully discharging all of its obligations under this part, or other form of financial security as CCC may deem appropriate.

Servicing agent bank means the bank designated as the financial institution for a CMA or a designated marketing association.

STC means the FSA State committee.

Unauthorized disposition means the conversion of any MAL quantity pledged as collateral for a farm-stored MAL without prior written authorization from the county committee.

Unauthorized removal means the movement of any farm-stored loan quantity from the storage structure in which the commodity was stored or structures that were designated when the MAL was approved to any other storage structure, whether or not such structure is located on the producer's farm, without prior written authorization from the county committee.

Unshorn pelt means the removed skin and attached wool from a slaughtered lamb that has never been shorn.

Warehouse receipt means a receipt containing the required information prescribed in this part and is:

(1) A pre-numbered, negotiable warehouse receipt issued under the authority of the U.S. Warehouse Act, a state licensing authority, or by an approved CCC warehouse in such format authorized and approved, in advance, by CCC;

(2) An electronic warehouse receipt (EWR) issued by such warehouse recorded in a central filing system or system maintained in one or more locations which are approved by FSA to operate such system; or

(3) Other such acceptable evidence of title, as determined by CCC.

Wool means the fiber sheared from a live sheep and includes, unless noted otherwise, graded and nongraded wool.

[67 FR 63511, Oct. 11, 2002, as amended at 68 FR 37940, June 26, 2003; 70 FR 33799, June 10, 2005; 74 FR 15650, Apr. 7, 2009; 80 FR 120, 129, Jan. 2, 2015; 86 FR 70705, Dec. 13, 2021]

§ 1421.4 Eligible producers.

(a) To be an eligible producer, the producer must:

(1) Be a person, partnership, association, corporation, estate, trust, or other legal entity that produces an eligible commodity as a landowner, landlord, tenant, or sharecropper, or in the case of rice, furnishes land, labor, water, or equipment for a share of the

rice crop. With respect to wool and mohair, the producer must own, other than through a security interest mortgage, or lien, the sheep and goats that produced the wool and mohair respectively for a period of not less than 30 days.

(2) Comply with all provisions of this part and, as applicable:

(i) 7 CFR part 12—Highly Erodible Land and Wetland Conservation;

(ii) 7 CFR part 707—Payments Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent;

(iii) 7 CFR part 718—Provisions Applicable to Multiple Programs;

(iv) 7 CFR part 996—Minimum Quality and Handling Standards for Domestic and Imported Peanuts Marketed in the United States;

(v) 7 CFR part 1400—Payment Limitation & Payment Eligibility;

(vi) 7 CFR part 1402—Policy for Certain Commodities Available for Sale;

(vii) 7 CFR part 1403—Debt Settlement Policies and Procedures;

(viii) 7 CFR part 1405—Loans, Purchases, and Other Operations;

(ix) 7 CFR part 1412—Agriculture Risk Coverage, Price Loss Coverage, and Cotton Transition Assistance Programs; and

(x) 7 CFR part 1423—Commodity Credit Corporation Approved Warehouses.

(3) Have made an acreage certification with respect to all the cropland on the farm.

(b) A receiver or trustee of an insolvent or bankrupt debtor's estate, an executor or an administrator of a deceased person's estate, a guardian of an estate of a ward or an incompetent person, and trustees of a trust is considered to represent the insolvent or bankrupt debtor, the deceased person, the ward or incompetent, and the beneficiaries of a trust, respectively. The production of the receiver, executor, administrator, guardian, or trustee is considered to be the production of the person or estate represented by the receiver, executor, administrator, guardian, or trustee. MALs and LDP documents executed by any such person will be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(c) A minor who is otherwise an eligible producer is eligible to receive MALs or LDPs only if the minor meets one of the following requirements:

(1) The right of majority has been conferred on the minor by court proceedings or by statute;

(2) A guardian has been appointed to manage the minor's property and the applicable MAL or LDP documents are signed by the guardian;

(3) Any note or loan deficiency payment program application signed by the minor is cosigned by a person determined by the county committee to be financially responsible; or

(4) A bond is furnished under which a surety guarantees to protect CCC from any loss incurred for which the minor would be liable had the minor been an adult.

(d) If more than one producer executes a note and security agreement with CCC, each such producer is jointly and severally liable for any violation of the terms and conditions of the note and security agreement and the regulations in this part. Each such producer also remains liable for repayment of the entire MAL amount until the MAL is fully repaid without regard to such producer's claimed share in the commodity pledged as collateral for the MAL. In addition, such producer may not amend the note and security agreement with respect to the producer's claimed share in such commodities, or MAL proceeds, after execution of the note and security agreement by CCC.

(e)(1) The county committee may deny a producer a MAL on farm-stored commodities if the producer has:

(i) Made a misrepresentation in connection with the MAL or LDP program;

(ii) Not allowed an FSA representative access to the site where commodities pledged as collateral for MALs were stored, or otherwise failed to cooperate in the settlement of MAL; or

(iii) Failed to adequately protect the interests of CCC in the commodity pledged as collateral for a farm-stored MAL.

(2) A producer who is denied a farm-stored MAL will be eligible to pledge a commodity as collateral for a warehouse-stored MAL or provide some

other form of financial assurance to obtain a farm-stored MAL.

(f) A CMA may obtain a MAL and LDP on eligible production of a MAL commodity on behalf of its members who are eligible to receive MALs or LDPs with respect to a crop of a commodity. For purposes of this subpart, the term ''producer'' includes a CMA.

(g) In case of the death, incompetency, or disappearance of any producer who is entitled to the payment of any sum in settlement of a MAL or LDP, payment will, upon proper application to the FSA county service center that disbursed the MAL or LDP, be made to the persons who would be entitled to such producer's payment under the regulations contained in part 707 of this title.

[67 FR 63511, Oct. 11, 2002, as amended at 74 FR 15650, Apr. 7, 2009; 75 FR 19193, Apr. 14, 2010; 80 FR 120, 129, Jan. 2, 2015; 86 FR 70705, Dec. 13, 2021]

§ 1421.5 Eligible commodities.

(a) Commodities eligible to be pledged as collateral for a MAL made under this part are:

(1) Barley, corn, grain sorghum, oats, peanuts, soybeans, oilseeds, wheat, dry peas, lentils, chickpeas, rice and other crops designated by CCC produced and mechanically harvested in the United States;

(2) Dual purpose sorghum varieties as determined by CCC; and

(3) Wool and mohair produced and shorn from live animals in the United States.

(b) A commodity produced on land owned or otherwise in the possession of the United States that is occupied without the consent of the United States is not an eligible commodity.

(c)(1) To be an eligible commodity, the commodity must be merchantable for food, feed, or other uses determined by CCC and must not contain mercurial compounds, toxin producing molds, or other substances poisonous to humans or animals. A commodity containing vomitoxin, aflatoxin, or Aspergillus mold may not be pledged for a nonrecourse MAL made under this part, except as provided by CCC in the MAL note and security agreement.

(2) The determination of eligibility for rice includes class, grade, grading factor, milling yields, and other quality factors and will be based upon the U.S. Standards for Rice as applied to rough rice whether or not such determinations are made on the basis of an official inspection.

(3) The determination of eligibility for peanuts includes type, quality, and quantity.

(4) With regard to barley, canola, corn, flaxseed, grain sorghum, oats, rice, soybeans, sunflower seed for extraction of oil, wheat, and other commodities designated by CCC, the determination of eligibility will be based upon the Official U.S. Standards for Grain: U.S. Standards for Whole Dry Peas, Split Peas, and Lentils for dry peas and lentils; and the U.S. Standards for Beans for chickpeas, whether or not such determinations are made on the basis of an official inspection.

(5) With regard to hull-less barley, hull-less oats, mustard seed, rapeseed, safflower seed, and sunflower seed used for a purpose other than to extract oil, the determination of eligibility will be based on quality requirements established and announced by CCC, whether or not such determinations are made on the basis of an official inspection. The costs of an official quality determination may be paid by CCC. The quality requirements that are used in administering MALs and LDPs for the oilseeds in this paragraph are available in USDA State and county FSA service centers.

(6) With regard to farm-stored peanuts, the determination of eligibility will be determined at the time of delivery to CCC by a Federal or State Inspector authorized or licensed by the Secretary.

(d) Eligible wool and mohair must:

(1) Have been produced and sheared from live sheep and goats, of domestic origin and located in the U.S. for a period of not less than 30 calendar days prior to shearing.

(2) Be of merchantable quality deemed by CCC to be suitable for MAL and must have been shorn in the United States.

(e) When certifying acreage on farms in which an interest is held, the producer must provide acceptable evidence of the commodity from which the county committee may determine whether

the eligible production claimed by the producer is reasonable for the production practices on such farm or have either the eligible or ineligible commodity measured by a representative of the county FSA service center at the producer's expense, before commingling.

(f) A commodity that is purchased, substituted, or acquired by sale, gift, or exchange of an existing harvested, sheared, or slaughtered commodity, or through any other transaction is ineligible to be pledged as collateral for a MAL; in addition an LDP will not be made with respect to such commodities.

[67 FR 63511, Oct. 11, 2002, as amended at 71 FR 32422, June 6, 2006; 74 FR 15651, Apr. 7, 2009; 75 FR 19193, Apr. 14, 2010; 80 FR 121, Jan. 2, 2015; 86 FR 70705, Dec. 13, 2021]

§ 1421.6 Beneficial interest.

(a) To be eligible to receive MALs and loan deficiency payments, a producer must have beneficial interest in the commodity that is tendered to CCC for a MAL or is requested for a LDP. For the purposes of this part, the term ''beneficial interest'' refers to a determination by CCC that a person has title to and control of the commodity that is tendered to CCC as collateral for a MAL or of the commodity that will be used to determine a LDP. A determination of whether a person has beneficial interest in a commodity is made by CCC in accordance with this part and is not based upon a determination under any State law or any other regulation of a Federal agency.

(b) Except as provided in paragraph (e) of this section, when requesting a MAL for a loan commodity, in order to have beneficial interest in the commodity tendered as collateral for the MAL, a person must:

(1) Be the producer of the commodity as determined in accordance with § 1421.4;

(2) Have had ownership of the commodity from the time it was planted (with respect to wool and mohair from time of shearing) through the earlier the date the MAL was repaid or the maturity date of the MAL;

(3) Have control of the commodity from the time of planting (for wool and mohair from the time of shearing) through the maturity date of the MAL. To have control of the commodity, such person must have complete decision-making authority regarding whether the commodity will be tendered as collateral for a MAL, when the MAL will be repaid, or if the collateral will be forfeited to CCC in satisfaction of the MAL obligations of such person, and where the commodity will be maintained during the term of the MAL;

(4) Not have received any payment from any party with respect to the commodity; and

(5) If the commodity has been physically delivered to a location other than a location owned or under the total control of the producer, have delivered the commodity to a warehouse authorized in accordance with § 1421.103(c). Delivery of the commodity to a location other than to such an authorized warehouse will result in the loss of beneficial interest in the commodity on the date of physical delivery and the producer will be considered to have lost beneficial interest as of 11:59 p.m. of such day. Accordingly, delivery of a commodity to entities such as a dairy, feedlot, ethanol plant, wool pool, feed mill, feed or grain bank, or other facilities as determined by CCC will result in the loss of beneficial interest as of the date of delivery, regardless of any other action or agreement between such an entity and the producer unless such an entity has been authorized by CCC under § 1421.103(c).

(c) Except as provided in paragraph (e) of this section, when requesting a loan deficiency payment for an eligible commodity, in order to have beneficial interest in the commodity a person must:

(1) Be the producer of the commodity as determined in accordance with § 1421.4;

(2) Have had ownership of the commodity from the time it was planted, with respect to wool and mohair from the time of shearing, or from the time of slaughter for unshorn pelts, through the date the producer has elected to determine the loan deficiency payment rate;

(3) Have control of the commodity. For control such person must have

complete decisionmaking authority regarding whether a loan deficiency payment will be requested with respect to the commodity; when the loan deficiency rate will be selected; and where the commodity will be maintained prior to the date on which the LDP rate will be determined;

(4) Not have received any payment from any party with respect to the commodity; and

(5) If the commodity has been physically delivered to a location other than a location owned or under the total control of the producer, have delivered the commodity to a warehouse authorized in accordance with §1421.103(c). Delivery of the commodity to a location other than to an authorized warehouse will result in the loss of beneficial interest in the commodity on the date of physical delivery and the producer will be considered to have lost beneficial interest as of 11:59 p.m. of such day. Accordingly, delivery of a commodity to entities such as a dairy, feedlot, ethanol plant, wool pool, feed mill, feed or grain bank, or unauthorized storage facility, will result in the loss of beneficial interest as of the date of delivery, regardless of any other action or agreement between such an entity and the producer unless such an entity has been authorized by CCC under §1421.103(c).

(d) Notwithstanding any provision of paragraphs (b) and (c) of this section and §1421.5(f), in order to facilitate handling situations involving the death of a producer, CCC will consider an estate, heirs of the deceased producer, and a person to whom title to a commodity has passed by virtue of State law upon the death of the producer to have beneficial interest in a commodity produced by the producer under the same terms and conditions that would otherwise be applicable to such producer;

(e) Notwithstanding any provision of paragraphs (b) and (c) of this section and §1421.5(f), a person who purchases or otherwise acquires a commodity from a producer under any circumstances does not obtain beneficial interest to the commodity whether such purchase or acquisition is made prior to the harvest of the crop or after harvest; however, CCC will consider a person to have beneficial interest in a commodity if, prior to harvest, such person has obtained title to the growing commodity at the same time that such person obtained full title to the land on which such crop was growing;

(f) If marketing assistance loans and loan deficiency payments are made available to producers through an approved CMA in accordance with part 1425 of this chapter, the beneficial interest in the commodity must always have been in the producer-member who delivered the commodity to the approved CMA or its member approved CMA, except as otherwise provided in this section. If the producer-member who delivered the commodity does not retain the right to share in the proceeds from the marketing of the commodity as provided in part 1425 of this chapter, commodities delivered to an approved CMA shall not be eligible to be pledged as collateral for a marketing assistance loan or be taken into consideration when a loan deficiency payment is made.

(g) A producer will lose beneficial interest in a commodity if the producer receives any payment from any person under any contractual arrangement with respect to a commodity if the person who is making the payment, or any person otherwise associated with the person making the payment, will at any time have title to the commodity or control of the commodity prior to or after harvest, shearing, or slaughter unless:

(1) Such payment is authorized in accordance with part 1425 of this chapter; or

(2) The payment is made as consideration for an option to purchase the commodity and such option contains the following language:

Notwithstanding any other provision of this option to purchase or any other contract, title and control of the commodity and beneficial interest in the commodity as specified in 7 CFR 1421.6 shall remain with the producer until the buyer exercises this option to purchase the commodity. This option to purchase shall expire, notwithstanding any action or inaction by either the producer or the buyer, at the earlier of:

(1) The maturity of any Commodity Credit Corporation (CCC) loan that is secured by such commodity;

(2) The date CCC claims title to such commodity; or

(3) Such other date as provided in this option.

(h) Inclusion in a contract of one or more of the following types of provisions will not result in the loss of beneficial interest in a commodity:

(1) A provision that allows the producer to select the sales price of the commodity at a time the contract is entered into or at a later date, for example, a contract normally referred to as a deferred-price, forward or price later contract. The following conditions apply:

(i) Producers under a deferred-price, forward, or price later contract will lose beneficial interest in the commodity the earlier of receipt of any payment or once the commodity is applied in fulfillment of the delivery requirements of such a contract.

(ii) Beneficial interest in the commodity is retained by the producer if the contract has no restrictive or contradictory clauses within the contract that may cause the producer to lose beneficial interest in the commodity.

(2) A provision between the producer and a warehouse authorized in accordance with §1421.103(c) for the storage of MAL collateral that provides the producer a period of time following the date of physical delivery of the commodity to elect whether the commodity is to be stored and receipted on behalf of the producer or is to be considered transferred to the warehouse if CCC determines such a provision is required.

(i) Commodities produced under a contract in which the title to the seed remains with the entity providing the seed to the producer, including contracts for the production of hybrid seed, genetically modified commodities, and other specialty seeds as approved in writing by CCC, are eligible to be pledged as collateral for a MAL or a LDP may be made with respect to such production if, at the time of the request for such a MAL or LDP, the producer has not:

(1) Received a payment under the contract; or

(2) Delivered the commodity to another person.

[71 FR 32422, June 2, 2006, as amended at 71 FR 51426, Aug. 30, 2006; 71 FR 60413, Oct. 13, 2006; 74 FR 15651, Apr. 7, 2009; 80 FR 121, Jan. 2, 2015]

§ 1421.7 Requesting MALs and LDPs.

(a) A producer may apply for a MAL or LDP at any FSA county office. The receiving FSA county office will forward the MAL or LDP request to the administrative county office, as specified in part 718 of this title, that is responsible for administrating programs for the farm on which the commodity was produced. The administrative county office will process and approve the MAL or LDP.

(b) A MAL or LDP may be requested in person, by mail, or by electronic format designated by CCC. Forms prescribed by CCC may be obtained from the FSA Web site.

(c) To receive a MAL or LDP for an eligible commodity, a producer must execute a note and security agreement or LDP application on or before the applicable final loan availability date, as follows:

(1) March 31 of the year following the year in which the following crops are normally harvested: barley, canola, flaxseed, oats, rapeseed, crambe, sesame seed, and wheat.

(2) May 31 of the year following the year in which the following crops are normally harvested: corn, grain sorghum, mustard seed, rice, safflower, soybeans, sunflower seed, dry peas, lentils, and chickpeas.

(3) January 31 of the year following the year in which peanuts are normally harvested or wool and mohair are normally sheared.

[67 FR 63511, Oct. 11, 2002, as amended at 74 FR 15651, Apr. 7, 2009; 80 FR 121, Jan. 2, 2015]

§ 1421.8 Eligible quantity.

(a) With respect to MALs and LDPs for:

(1) Farm-stored commodities, all determinations of weight and quality, except as otherwise agreed to or required by CCC, will be determined at the time of delivery of the commodity to CCC or at the time the LDP application is filed for measured requests, if applicable, or

selected for spot-check for certified requests.

(2) Warehouse-stored commodities, all determinations of grade, weight and quality, except as otherwise agreed to or required by CCC, will be determined at the time the MAL is forfeited to CCC.

(b)(1) A producer may, before the final MAL availability date for obtaining a MAL for a commodity, repledge as collateral for securing a MAL any commodity that had been previously pledged as collateral for a MAL, except with respect to:

(i) Commodities that have been redeemed at the prevailing world market price for rice, or the alternative repayment rate for all other commodities, as determined by CCC.

(ii) Commodities on which a LDP has been received.

(2) The commodity repledged as security for the subsequent MAL will have the same maturity date, under §1421.101 as the original MAL.

(c)(1) The MAL documents will not be presented for disbursement unless the commodity subject to the note and security agreement is an eligible harvested commodity, is in existence, and is in authorized farm or warehouse storage, as determined by CCC. If the commodity was not either an eligible commodity, in existence, or in authorized storage at the time of disbursement, the total amount disbursed under the MAL and charges plus interest must be refunded promptly by the producer.

(2) CCC will limit the total quantity for MAL or LDP disbursement to 100 percent of the quantity of such MAL or LDP application. A producer may obtain a separate MAL or LDP before the final loan availability date for the commodity for quantities in excess of 100 percent of such quantity if such quantities are otherwise eligible.

[67 FR 63511, Oct. 11, 2002, as amended at 74 FR 15651, Apr. 7, 2009; 80 FR 121, 129, Jan. 2, 2015]

§1421.9 Basic loan rates.

(a) Basic MAL rates for a commodity may be established on a National, State, regional, county basis or other basis, will be at rates that comply with applicable statutes, and may be adjusted by CCC to reflect grade, type, quality, location and other factors applicable to the commodity and as otherwise provided in this section.

(b) The basic MAL rates for wheat, corn, barley, oats, grain sorghum, rice, peanuts, soybean, canola, flaxseed, mustard seed, rapeseed, safflower, sunflower seed, dry peas, lentils, chickpeas, crambe, sesame seed, wool, mohair and other crops designated by CCC will be determined by CCC and made available to State and county offices.

(c) Subject to adjustment as specified in paragraph (f) of this section, in case of forfeiture, for all commodities except rice and peanuts, warehouse-stored MALs will be disbursed at levels based on the basic county MAL rate for the county where the commodity is stored.

(1) For rice, subject to adjustment as specified in paragraph (f) of this section, in case of forfeiture, warehouse-stored MALs will be disbursed at levels based on the milling yields times the whole and broken kernel MAL rates.

(2) For peanuts, warehouse-stored MALs will be disbursed at levels based on National loan rates by peanut type, adjusted for the schedule of premiums and discounts on the basis of grade, quality, and other factors specified on warehouse receipts.

(d) The Secretary will establish a single loan rate in each county for each kind of other oilseeds, such as but not limited to, sunflower, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, and other oilseeds as designated by the Secretary.

(e) Adjustments by the Secretary to establish loan rates for loan commodities, except rice, on a county basis will not be lower than 95 percent of the national average loan rate, if those loan rates do not result in an increase in outlays. Adjustments in this section will not result in an increase in the national average loan rate for any year.

(f) For all crop years, premiums and discounts will not apply for all eligible loan commodities at loan disbursement, except for peanuts or additional commodities as determined by the Deputy Administrator on a crop year basis. However, premiums and discounts will apply if the eligible loan commodities

are forfeited or delivered to CCC and any deficiency must be repaid to CCC.

[67 FR 63511, Oct. 11, 2002, as amended at 74 FR 15651, Apr. 7, 2009; 80 FR 122, 129, Jan. 2, 2015; 86 FR 70705, Dec. 13, 2021]

§ 1421.10 Loan repayment rates.

(a) For the applicable crop years of barley, corn, grain sorghum, oats, wheat, dry peas, lentils, chickpeas, oilseeds, wool, mohair, and other crops as designated by CCC (other than peanuts, long grain rice, medium grain rice, and confectionery and each other kind of sunflower seed (other than oil sunflower seed)), a producer may repay a nonrecourse MAL at a rate that is the lesser of:

(2) A rate (as determined by the Secretary) that is calculated based on average market prices for the loan commodity during a preceding 30-day period and that the Secretary has determined will minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries; or

(3) A rate that the Secretary may develop using alternative methods for calculating a repayment rate for a loan commodity that the Secretary determines will: Minimize potential loan forfeitures; minimize the accumulation of stocks of the commodity by the Federal Government; minimize the cost incurred by the Federal Government in storing the commodity; allow the commodity produced in the U.S. to be marketed freely and competitively, both domestically and internationally; and minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries.

(b) To the extent practicable, CCC will determine and announce repayment rates under paragraphs (a)(2) and (a)(3) of this section based upon market prices at appropriate U.S. markets as determined by CCC and these repayment rates may be adjusted to reflect grade, type, quality, location, and other factors for each crop of a commodity as follows:

(1) On a weekly basis in each county for oilseeds, except canola, flaxseed, soybeans, and sunflower seed;

(2) On a daily basis in each county for barley, canola, corn, flaxseed, grain sorghum, oats, soybeans, sunflower seed and wheat; and

(3) On a weekly basis regionally for dry peas, lentils, chickpeas, wool and mohair.

(1) A producer may repay a nonrecourse MAL for peanuts at a rate that is the lesser of:

(i) The loan rate established for the commodity under § 1421.9, plus interest; or

(ii) A rate that the Secretary determines will: Minimize potential loan forfeitures; minimize the accumulation of stocks of the commodity by the Federal Government; minimize the cost incurred by the Federal Government in storing the commodity; and allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally.

(2) To the extent practicable, CCC will determine and announce weekly alternative repayment rates for peanuts.

(d) For peanuts, the Secretary will require the repayment of handling and other associated costs paid under § 1421.104 for all peanuts pledged as collateral for a MAL that are redeemed under this section.

(e) The Secretary will permit producers to repay a MAL for long grain rice and medium grain rice at a rate that is the lesser of:

(1) The loan rate established for the commodity under § 1421.9, plus interest; or

(2) The prevailing world market price for the commodity, as determined and adjusted by the Secretary in accordance with this section.

(f) For purposes of this section, the Secretary will prescribe—

(1) A formula to determine the prevailing world market price for long grain rice and medium grain rice and

(2) A mechanism by which the Secretary will announce periodically those prevailing world market prices.

(g) Adjustments will be made to the prevailing world market price for long grain rice and medium grain rice.

(1) The prevailing world market price for long grain and medium rice determined under paragraph (f) of this section will be adjusted to U.S. quality and location.

(2) In making adjustments under this subsection, the Secretary will establish a mechanism for determining and announcing the adjustments in order to avoid undue disruption in the U.S. market.

(h)(1) The prevailing world market price for a class of rice will be determined by CCC based upon a review of prices at which rice is being sold in world markets and a weighting of such prices through the use of information such as changes in supply and demand of rice, tender offers, credit concessions, barter sales, government-to-government sales, special processing costs for coatings or premixes, and other relevant price indicators, and will be expressed in U.S. equivalent values F.O.B. (free on board) vessel, U.S. port of export, per hundredweight as follows:

(i) U.S. grade No. 2, 4 percent broken kernels, long grain milled rice;

(ii) U.S. grade No. 2, 4 percent broken kernels, medium grain milled rice; and

(iii) U.S. grade No. 2, 4 percent broken kernels, short grain milled rice.

(2) Export transactions involving rice and all other related market information will be monitored on a continuous basis. Relevant information may be obtained for this purpose from USDA field reports, international organizations, public or private research entities, international rice brokers, and other sources of reliable information.

(3) The prevailing world market price for a class of rice adjusted to U.S. quality and location, the adjusted world price (AWP), as determined under paragraph (h)(5) of this section, will apply to this section.

(4) The adjusted world price for each class of rice will equal the prevailing world market price for a class of rice (U.S. equivalent value) as determined under paragraphs (h)(1) and (h)(2) of this section and adjusted to U.S. quality and location as follows:

(i) The prevailing world market price for a class of rice will be adjusted to reflect an F.O.B. mill position by deducting from such calculated price an amount that is equal to the estimated national average costs associated with:

(A) The use of bags for the export of U.S. rice, and

(B) The transfer of such rice from a mill location to F.O.B. vessel at the U.S. port of export with such costs including, but not limited to, freight, unloading, wharfage, insurance, inspection, fumigation, stevedoring, interest, banking charges, storage, and administrative costs.

(ii) The price determined under paragraph (h)(4)(i) of this section will be adjusted to reflect the market value of the total quantity of whole kernels contained in milled rice by deducting the world value of broken kernels it contains, with the value of the broken kernels determined by multiplying a formulaic quantity of broken kernels (4 percent per hundredweight) by the world market value of broken kernels. The world market value of broken kernels will be based upon the relationship of whole and broken kernel world prices as estimated from observations of prices at which rice is being sold in world markets.

(iii) The price determined under paragraph (h)(4)(ii) of this section will be adjusted to reflect the per-pound market value of whole kernels by dividing the price by the quantity of whole milled kernels contained in the milled rice (96 percent per hundredweight).

(iv) The price determined under paragraph (h)(4)(iii) of this section will be adjusted to reflect the market value of whole kernels contained in 100 pounds of rough rice by multiplying such price by the estimated national average quantity of whole kernel rice by class obtained from milling 100 pounds of rough rice.

(v) The price determined under paragraph (h)(4)(iv) of this section will be adjusted to reflect the total market value of rough rice by:

(A) Adding to such price:

(*1*) The market value of bran contained in the rough rice, computed by multiplying the domestic unit market value of bran by the estimated national average quantity of bran produced in milling 100 pounds of rice; and

(*2*) The market value of broken kernels contained in the rough rice, computed by multiplying the estimated world market value of broken kernels by the estimated national average

quantity of broken kernels produced in milling 100 pounds of rice;

(B) Deducting from such price an estimated cost of milling rough rice; and an estimated cost of transporting rough rice from farm to mill locations.

(5) The adjusted world price for each class of rice, loan rate basis, will be determined by CCC and announced, to the extent practicable, on or after 7 a.m. Eastern Standard Time each Wednesday or more frequently as determined necessary by CCC, continuing through the later of:

(i) The last Wednesday of July in the calendar year following the year the rice crop was harvested, or in which the rice MAL matures,

(ii) The last Wednesday of the latest month the rice MAL matures, or

(iii) If Tuesday is not a normal business day, the price determination may be made on the next work day and announced the following day, on or after 7 a.m. Eastern Standard Time.

(i) The producer may repay a MAL under this section for confectionery and each other kind of sunflower seed (other than oil sunflower seed) at a rate that is the lesser of:

(1) The loan rate established for the commodity under §1421.9, plus interest, or

(2) The repayment rate established for oil sunflower seed.

(j)(1) On a form prescribed by CCC, a producer may request to lock in the applicable repayment rate for a period of 60 calendar days or for the remaining life of the MAL term, whichever is less, provided that no request may be granted within 14 calendar days of the end of the MAL.

(2) The request to lock in the applicable repayment rate must be received in the FSA county service center that disbursed the MAL.

(3) The repayment rate that is locked in will be the rate in effect when the request to lock in is approved.

(4) The repayment rate may be locked in on outstanding farm-stored or warehouse-stored loans.

(5) The repayment rate that is locked in will expire as provided in paragraph (j)(1) of this section.

(6) The requests can only be completed one time for a designated quantity.

(7) For multiple locked in requests, the oldest unexpired locked in repayment rate is applied first.

(8) The completed and signed form can be submitted in person, by facsimile, or electronically.

(9) The requests cannot be canceled, terminated, or changed after approval.

(10) The locked in applicable repayment rate will transfer to any MAL disbursed outside of the originating county where the commodity was stored.

(11) Once a repayment rate is locked in it cannot be extended.

(k) If a producer fails to repay a MAL within the time prescribed by CCC under the terms and conditions of the request to lock in a market loan repayment rate, the producer may repay the MAL:

(1) On or before maturity, at the lesser of:

(i) Principal plus interest as determined by CCC; or

(ii) The repayment rate in effect on the day the repayment is received in the FSA County Service Center.

(2) After maturity, at principal plus interest.

(l) When the proceeds of the sale of the commodity are needed to repay all or a part of a farm-stored MAL, the producer must request and obtain prior written approval on a CCC-approved form and comply with the terms and conditions of such form, to remove a specified quantity of the commodity from storage. Approval does not constitute release of CCC's security interest in the commodity or release of producer liability for amounts due CCC for the MAL indebtedness if payment in full is not received by the FSA county office. Failure to repay a MAL within the time period prescribed by CCC in the case of a farm-stored loan and delivery of the pledged collateral to a buyer is a violation of the agreement. In the case of such violation, the producer must repay the loan principal and interest or another amount as determined by the Deputy Administrator, FSA, as specified in §1421.109.

(m) The producer may obtain county committee approval of a release of all or part of pledged collateral for a warehouse-stored MAL at or before the maturity of such MAL by paying to CCC:

(1) The principal amount of the marketing assistance loan and charges plus interest or

(2) An amount less than the principal amount of the MAL and charges plus interest under the terms and conditions specified by CCC at the time the producer redeems the collateral for such MAL.

(n) A partial release of marketing assistance loan collateral must cover all of the commodity represented by one warehouse receipt. Warehouse receipts redeemed by repayment of the marketing assistance loan must be released only to the producer. However, such receipt may be released to persons designated in a written authorization that is filed with the county office by the producer within 15 days before the date of repayment.

(o) The note and security agreement will not be released until the marketing assistance loan has been satisfied in full.

(p)(1) If the commodity is moved from storage without obtaining prior approval to move such commodity, such removal will constitute unauthorized removal or disposition, as applicable under §1421.109(b), unless the removal occurred on a non-workday and the producer notified the county office on the next workday of such removal.

(2) Any MAL quantities involved in a violation of §1421.109 must be repaid under §1421.109(e).

(q) In the event of a severe disruption to marketing, transportation, or related infrastructure, the Secretary may modify the repayment rate otherwise applicable under this section for marketing assistance loans. Any adjustment made to the repayment rate for marketing assistance loans for a loan commodity under §1421.5 will be in effect on a short-term and temporary basis, as determined by the Secretary.

[74 FR 15652, Apr. 7, 2009, as amended at 80 FR 122, 129, Jan. 2, 2015]

§1421.11 Spot checks.

(a) CCC may inspect the collateral for MALs, and producers with such MALs must allow CCC reasonable access to the farm and storage facility as necessary to conduct ''spot check'' collateral inspections. Spot checks are intended to verify that the quality and quantity of farm-stored commodities pledged as collateral for MALs are maintained by the producer.

(b) LDPs are selected for spot check to ensure that all eligibility requirements, as required by CCC, are met in order to receive such LDP.

(c) Producers must present production evidence for commodities acceptable to CCC when a spot check is conducted.

[67 FR 63511, Oct. 11, 2002, as amended at 80 FR 122, Jan. 2, 2015]

§1421.12 Production evidence.

(a) Producers who redeem MAL collateral at the prevailing world market price for rice, or the alternative repayment rate for all other commodities, as CCC determines or receives an LDP may be required to provide CCC with:

(1) Evidence of production of the collateral such as:

(i) Evidence of sales;

(ii) Delivery evidence;

(iii) Load summaries from warehouse, processor, or buyer;

(iv) Warehouse receipts including EWRs;

(v) Paid measurement service;

(vi) Spot check measurements with paid measurement service;

(vii) Cleaning tickets for seed;

(viii) Scale tickets, if not issued by the producer for the producer's own production;

(ix) Core tests for wool and mohair; or

(x) Maximum eligible quantity as determined by CCC.

(2) The storage location of the collateral that has not been otherwise disposed of and access to such collateral;

(3) Permission to inspect, examine, and make copies of the records and other written data as deemed necessary to verify the eligibility of the producer and commodity;

(4) In the case of wool and mohair, permission to examine and inspect the sheep herd; and

(5) Any other evidence requested by the county FSA service center or the Deputy Administrator, FSA.

(b) A producer who fails to provide acceptable evidence of production is be required to repay the market loan gain

or LDP and charges, plus interest, as determined by CCC.

[67 FR 63511, Oct. 11, 2002, as amended at 80 FR 122, Jan. 2, 2015]

§ 1421.13 Special loan deficiency payments.

(a)(1) Eligible producers of unshorn pelts produced from live sheep and hay and silage derived from an eligible loan commodity as provided in §1421.5 are eligible to request unshorn pelt, hay, and silage quantities for a LDP under subpart C of this part.

(2) Unshorn pelts, hay, and silage derived from an eligible loan commodity are not eligible to be pledged as collateral to obtain a MAL under subpart B of this part.

[71 FR 32424, June 6, 2006, as amended at 74 FR 15654, Apr. 7, 2009; 80 FR 129, Jan. 2, 2015]

§ 1421.14 Obtaining peanut MALs.

(a) Peanuts MALs to individual producers may be obtained through:

(1) County offices; or

(2) A designated Marketing Association or a CMA approved by CCC.

(b) The MAL documents will not be presented for disbursement unless the peanuts pledged as collateral for the MAL are eligible as specified in §1421.8. If the peanuts were ineligible at the time of the disbursement, the total amount disbursed under MAL, or as an LDP, plus charges and interest will be refunded promptly.

[67 FR 63511, Oct. 11, 2002, as amended at 80 FR 123, Jan. 2, 2015]

Subpart B—Marketing Assistance Loans

SOURCE: 67 FR 63511, Oct. 11, 2002, unless otherwise noted.

§ 1421.100 Applicability.

This subpart provides the terms and conditions for MALs offered by CCC. Additional terms and conditions are also in the note and security agreement which the producer must sign to receive such MALs.

[67 FR 63511, Oct. 11, 2002, as amended at 80 FR 129, Jan. 2, 2015]

§ 1421.101 Maturity dates.

(a)(1) All MALs will mature on demand by CCC and no later than the last day of the 9th calendar month following the month in which the note and security agreement is filed and approved except for transferred MAL collateral. The maturity date for transferred MAL collateral will be the maturity date applicable to the original MAL that was transferred.

(2) CCC may at any time call the MAL by notifying the producer at least 30 days in advance of the accelerated maturity date.

(b) The maturity date of any MAL may not be extended.

[67 FR 63511, Oct. 11, 2002, as amended at 74 FR 15654, Apr. 7, 2009; 80 FR 123, 129, Jan. 2, 2015]

§ 1421.102 Adjustment of basic loan rates.

(a) Basic loan rates are established under §1421.9 and will be adjusted or not adjusted as follows:

(1) For farm-stored commodities, except for peanuts, that exceed acceptable levels of contamination, the loan rate will be discounted to 10 percent of the base county MAL rate if pledged as collateral for a nonrecourse loan. Loan rates for commodities with acceptable levels of contamination will not be adjusted if pledged as collateral for recourse loans.

(2) For farm-stored commodities where the test weight discounts are on the:

(i) Crop year specific schedules of premiums and discounts, the MAL rate will be adjusted for the higher of the discount for test weight or grade based on test weight.

(ii) Additional schedule of discounts, the MAL rate will be reduced to 20 percent of the county loan rate.

(3) With respect to commodities harvested, excluding silage or hay, as other than grain and pledged as collateral for a nonrecourse MAL, the MAL rate will be discounted to 30 percent of the county loan rate.

(4) With respect to farm-stored wheat, the basic county loan rate will not be adjusted to reflect the protein content.

(5) With respect to Segregation 2 and 3 peanuts as determined by CCC, the

MAL rate will be discounted to 35 percent of the applicable loan rate.

[67 FR 63511, Oct. 11, 2002, as amended at 74 FR 15654, Apr. 7, 2009; 80 FR 123, 129, 130, Jan. 2, 2015; 86 FR 70705, Dec. 13, 2021]

§ 1421.103 Authorized storage.

(a) Authorized farm storage is:

(1) A storage structure located on or off the farm, (excluding public warehouses that do not enter into an agreement with CCC), that CCC determines to be controlled by the producer which affords safe storage of collateral pledged for a MAL;

(2) If determined and announced to be available in a State or county, on ground storage and other temporary storage structures approved by CCC.

(3) As determined by CCC, temporary authorized storage may also include:

(i) On-ground storage or;

(ii) Other storage arrangements.

(b) CCC may reduce the quantity of a commodity pledged as collateral for a MAL made available under paragraph (a)(2) of this section to not more than 75 percent of such otherwise eligible quantity in order to protect the interests of CCC. CCC may also limit the length of time the commodity may be stored on-ground or in temporary structures to not more than 90 days. A MAL made with respect to such commodity that is not moved to a structure specified in (a)(2) within 90 days of the date the MAL was disbursed may be called by CCC.

(c)(1) Authorized warehouse storage consists of warehouses that:

(i) If Federally licensed, are in compliance with 7 CFR part 735 or

(ii) If not Federally licensed, are in compliance with State laws and that issue warehouse receipts that meet the criteria specified in §1421.107.

(iii) If not Federally licensed or in compliance with State Laws and issue warehouse receipts that meet the criteria specified in §1421.107, have entered into a storage agreement with CCC.

(2) Notwithstanding paragraph (c)(1) of this section, if storing peanuts, the warehouse must in all cases have entered into a storage agreement with CCC. For storing other crops, notwithstanding paragraph (c)(1) of this section, CCC may, on a case-by-case basis, still require a warehouse operator that would qualify under paragraphs (c)(1)(i) or (ii) of this section to enter into a storage agreement if deemed necessary by the Deputy Administrator to be needed to protect CCC's interests.

[67 FR 63511, Oct. 11, 2002, as amended at 74 FR 15654, Apr. 7, 2009; 80 FR 123, 129, Jan. 2, 2015]

§ 1421.104 Making MALs.

(a)(1) CCC may conduct such lien searches and may perfect its interest in loan commodities under State law as it deems to be in its interest.

(2) The cost for terminating the financing statement for MALs disbursed under this part before the end of the term will be paid by the producer.

(3) If there are any liens or encumbrances on the commodity pledged as collateral for a MAL made under this part, waivers that fully protect CCC's interest must be obtained even though the liens or encumbrances are satisfied from MAL proceeds disbursed under this part. No additional liens or encumbrances will be placed on the commodity after such a MAL is approved.

(b) Fees, charges, interest, and all applicable approved commodity assessment collections must be paid by the producer at a rate CCC determines or, in the case of assessments, at a rate approved by the assessment authority. Such fees, charges, and interest include:

(1) A non-refundable loan service fee;

(2) Interest that accrues on a loan under part 1405 of this chapter.

(c) To ensure proper storage of peanuts for which a MAL is made under this section, the Secretary will pay reasonable handling and other associated costs (other than storage) incurred at the time at which the peanuts are placed in a warehouse stored MAL. Such rates will be available in the State and county FSA offices.

[67 FR 63511, Oct. 11, 2002, as amended at 71 FR 32424, June 6, 2006; 74 FR 15654, Apr. 7, 2009; 75 FR 19193, Apr. 14, 2010; 80 FR 123, Jan. 2, 2015; 86 FR 70705, Dec. 13, 2021]

§ 1421.105 Farm-stored MALs.

(a) The producer of a commodity pledged as security for a farm-storage MAL:

(1) Certifies the quantity of such commodity on the MAL application, or;

(2) Has such quantity measured by CCC at the measurement service rate established by CCC.

(b) The State committee may establish a MAL percentage not to exceed a percentage CCC establishes or it may apply quality discounts to the loan rate in each year for each commodity on a statewide basis or for specified areas within the State. Before approving a county committee request to establish a different loan percentage, or to apply quality discounts, the State committee will consider conditions in the State or areas within a State to determine if the MAL percentage should be reduced below the maximum MAL percentage or the quality discounts should be applied to the basic county MAL rate to provide CCC with adequate protection. MALs disbursed based upon loan percentages previously lowered and loan rates adjusted for quality will not be altered if conditions within the State or areas within the State change to substantiate removing such reductions. Percentages established or loan rates adjusted for quality under this section will apply only to new MALs and not to outstanding MALs. In determining loan percentages or the necessity to apply quality discounts, the State committee will consider any factor at its discretion, including the following:

(1) General crop conditions;

(2) Factors affecting quality peculiar to an area within the State; and

(3) Climatic conditions affecting storability.

(c) An eligible quantity of a commodity that is commingled with an ineligible quantity of the commodity is not eligible to be collateral for a MAL unless the producer, when requesting a MAL designates all structures that may be used for storage of the MAL collateral.

(1) In such cases, the producer is not required to obtain prior written approval from the county committee before moving MAL collateral from one designated structure to another designated structure.

(2) In all other instances, if the producer intends to move MAL collateral from a designated structure to an undesignated structure, the producer must request prior approval from the county committee in writing. The producer may request that the eligible or ineligible commodity be measured by a representative of the county office, at the producer's expense, before commingling, but such measurement is not required. Prior to commingling, with respect to wool and mohair, a representative of the FSA county committee may determine an average production of the wool and mohair in a manner approved by CCC.

(d)(1) Two or more producers may obtain:

(i) A single joint MAL for commodities that are stored in the same farm storage facility; or

(ii) Individual MALs for their share of the commodity that is commingled in a farm storage facility with commodities owned by other producers if such other producers execute an agreement that provides that such producers will obtain the permission of a representative of the county committee before removal of any quantity of the commodity from the storage facility. All producers who store a commodity in a farm storage facility in which commodities that have been pledged as collateral for a MAL will be liable for any damage incurred by CCC for the deterioration or unauthorized removal or disposition of such commodities.

(2) In such cases, each producer must execute a note and security agreement with CCC, and each such producer will be jointly and severally liable for the violation of the terms and conditions of the note and the requirements of this part. Each producer is also liable for repayment of the entire MAL amount until the MAL is fully repaid without regard to their share in the commodity pledged as collateral. In addition, such producer may not amend the note and security agreement for the producer's claimed share in such commodities, or MAL proceeds, after execution of the note and security agreement by CCC.

(e)(1) A producer, when requesting a MAL, will designate in writing specific storage structures.

(2) The producer is not required to request prior approval before moving

marketing assistance loan collateral between such designated structures.

(3) Movement of MAL collateral to any other structures not designated or the disposal of such loan collateral without prior written approval of the county committee, will subject the producer to administrative actions.

(4) The producer is responsible for any loss in quantity or quality of the farm-stored commodity pledged as collateral.

(5) CCC will not assume any loss in quantity or quality of the MAL collateral for farm-stored MALs.

(f) If the producer does not pay CCC the total amount due in accordance with a MAL by the maturity date, CCC has the right to acquire title to the MAL collateral and to sell or otherwise take possession of such collateral without any further action by the producer. With respect to farm-stored MALs, the producer may, as CCC determines, deliver the MAL collateral in accordance with instructions issued by CCC. CCC will not accept delivery of any quantity of a commodity in excess of 110 percent of the outstanding farm-stored MAL quantity. If a quantity in excess of 110 percent of the outstanding farm-stored MAL quantity is shown on the warehouse receipt or other documents, the producer must provide replacement warehouse receipts and delivery documents. If the warehouse receipt and such other documents applicable to the settlement are not replaced to reflect the excess amount, CCC will provide for such corrected documents and apply charges for such service, if any, to the producer's account as charges for settlement on the MAL.

[67 FR 63511, Oct. 11, 2002, as amended at 80 FR 123, 129, Jan. 2, 2015]

§ 1421.106 Warehouse-stored MAL collateral.

(a) A commodity may be pledged as collateral for a warehouse-stored MAL in the quantity delivered to CCC for storage at a warehouse that meets standards for approval at part 1423 of this chapter. Such quantity is the net weight specified on the warehouse receipt or supplemental certificate.

(b) Two or more producers may obtain a single joint MAL for commodities stored in an approved warehouse if the warehouse receipt pledged as collateral is issued jointly to the producers.

(c) If more than one producer executes a note and security agreement with CCC, each such producer is jointly and severally liable for the violation of the terms and conditions of the note and the regulations in this part. Each such producer also remains liable for repayment of the entire MAL amount until the MAL is fully repaid without regard to such producer's claimed share in the commodity pledged as collateral for the MAL. In addition, such producer may not amend the note and security agreement with respect to the producer's claimed share in such commodities, or MAL proceeds, after execution of the note and security agreement by CCC.

(d) Storage rates that CCC has approved to be deducted from MAL proceeds are available in FSA State and county offices and other USDA service centers. Deductions are based upon entries on the warehouse receipt or supplemental certificate, but the storage rate is not to exceed the storage rate CCC has approved. No storage deduction is to be made if written evidence acceptable to CCC is submitted indicating that:

(1) Storage charges through the maturity date have been prepaid; or

(2) The producer has arranged with the warehouse operator for the payment of storage charges through the maturity date and the warehouse operator enters an endorsement in substantially the following form on the warehouse receipt:

> Storage arrangements have been made by the depositor of the commodity covered by this receipt through (date through which storage has been provided). No lien will be asserted by the warehouse operator against CCC or any subsequent holder of the warehouse receipt for the storage charges that accrued before the specified date.

(e) The beginning date to be used for computing storage deductions on the commodity stored in an approved warehouse will be the later of the following:

(1) The date the commodity was received or deposited in the warehouse;

(2) The date the storage charges start; or

(3) The day following the date through which storage charges have been paid.

(f) For hard red winter and hard red spring wheat tendered to CCC and stored in an approved warehouse, producers must obtain official protein content determinations or, as CCC determines is acceptable, protein content may be determined by mutual agreement between the producer and the warehouse operator. Costs of determinations will not be paid by CCC.

[67 FR 63511, Oct. 11, 2002, as amended at 74 FR 15654, Apr. 7, 2009;80 FR 124, 129, Jan. 2, 2015]

§ 1421.107 Warehouse receipts.

(a) Warehouse receipts for MALs tendered to CCC as specified in § 1421.3 may either be paper or electronic. All receipts, whether paper or electronic, must meet all the applicable provisions of this section and this part, and CCC program document requirements. EWRs must be issued by a provider approved by CCC.

(b) Warehouse receipts must be issued in the name of the eligible producer or CCC. If issued in the name of the eligible producer, the receipt must be properly endorsed on its reverse side certifying that the crop is free of encumbrances in order for title to vest in the holder. Receipts must be issued by an authorized warehouse and must represent a commodity that is deemed to be stored commingled. The receipts must be negotiable and must represent a commodity that is the same quantity and quality as the eligible commodity actually in storage in the warehouse of the original deposit.

(c) If the receipt is issued for a commodity that is owned by the warehouse operator either solely, jointly, or in common with others, the fact of such ownership is to be stated on the receipt. In States where the pledge of warehouse receipts issued by a warehouse operator on the warehouse operator's commodity is invalid, the warehouse operator may offer the commodity to CCC for a MAL if such warehouse is licensed under the U.S. Warehouse Act.

(d) Each warehouse receipt or accompanying supplemental certificate representing a commodity stored in an authorized warehouse must indicate that the commodity is insured. CCC shall not be responsible for the cost of such insurance.

(e) A separate warehouse receipt must be submitted for each grade and class of any commodity tendered to CCC and, for rice, such receipt must also state the milling yield of the rice, and for wool, such receipts must also state the yield and micron of the wool.

(f) With respect to peanuts, a warehouse receipt must be submitted exhibiting grade, type, and segregation for peanuts tendered to CCC.

(g)(1) Each warehouse receipt, or a supplemental certificate (in duplicate) that properly identifies the warehouse receipt, must be issued by an authorized warehouse as specified in § 1421.103(c)(1), as applicable, and must indicate:

(i) The name and location of the storing warehouse;

(ii) The warehouse code assigned by licensing authority;

(iii) The warehouse receipt number;

(iv) The date the receipt was issued;

(v) The type of commodity;

(vi) The date the commodity was deposited or received;

(vii) The date to which storage has been paid or the storage start date;

(viii) Whether the commodity was received by rail, truck or barge;

(ix) The amount per bushel, pound, or hundredweight of prepaid in or out charges;

(x) The signature of the warehouse operator or the authorized agent; and

(xi) For warehouses operating under a merged warehouse code agreement (KC–385), the location and county to which the producer delivered the commodity.

(2) In addition to the information specified in paragraph (g)(1) of this section, additional commodity specific requirements will be determined by CCC and be available at State and county offices and the Kansas City Commodity Office.

(h) If a warehouse receipt indicates that the commodity tendered for MAL grades ''infested'' or ''contains excess moisture,'' or both, the receipt must be accompanied by a supplemental certificate in order for the commodity to be eligible for a MAL. The grade, grading

factors, and quantity to be delivered must be shown on the certificate as follows:

(1) When the warehouse receipt shows ''infested'' and the commodity has been conditioned to correct the infested condition, the supplemental certificate must show the same grade without the ''infested'' designation and the same grading factors and quantity as shown on the warehouse receipt.

(2)(i) When the warehouse receipt shows that the commodity contained excess moisture and the commodity has been dried or blended, the supplemental certificate must show the grade, grading factors, and quantity after drying or blending of the commodity. Such entries must reflect a drying or blending shrinkage as provided in paragraph (h)(2)(iv) of this section.

(ii) When a supplemental certificate is issued under paragraphs (g)(1) and (h)(2)(i) of this section, the grade, grading factors, and the quantity shown on such certificate will supersede the entries for such items on the warehouse receipt.

(iii) If the commodity has been dried or blended to reduce the moisture content, the quantity specified on the warehouse receipt or the supplemental certificate represents the quantity after drying or blending.

(iv) For commodities dried or blended under paragraph (h)(2)(iii) of this section, such quantity must reflect a minimum shrinkage in the receiving weight excluding dockage:

(A) For the following commodities, 1.3 times the percentage difference between the moisture content of the commodity received and the following percentages for the specified commodity:

(*1*) Barley: 14.5 percent;
(*2*) Corn: 15.5 percent;
(*3*) Grain sorghum: 14.0 percent;
(*4*) Oats: 14.0 percent;
(*5*) Rice: 14.0 percent;
(*6*) Soybeans: 14.0 percent;
(*7*) Wheat: 13.5 percent; and
(*8*) Peanuts: 10.0 percent.

(B) For the following commodities, 1.1 times the percentage difference between the moisture content of the commodity received and the following percentages for the specified commodity:

(*1*) Canola: 10.0 percent;
(*2*) Flaxseed: 9.0 percent;
(*3*) Mustard Seed: 10.0 percent;
(*4*) Rapeseed: 10.0 percent;
(*5*) Safflower Seed: 10.0 percent;
(*6*) Sunflower Seed: 10.0 percent;
(*7*) Crambe: 10.0 percent; and
(*8*) Sesame Seed: 10.0 percent.

(i)(1) If, under paragraph (g) of this section, a supplemental certificate is issued in connection with a warehouse receipt, such certificate must state that no lien for processing will be asserted by the warehouse operator against CCC or any subsequent holder of such receipt.

(2) Warehouse receipts and the commodities represented by such receipts may be subject to a lien for warehouse charges. For all commodities except peanuts, the producer who pledged such a receipt as collateral for a MAL under this part pays to CCC all costs incurred by CCC as result of the existence of the lien. In no event is a warehouse operator entitled to satisfy such a lien by sale of the commodities when CCC is the holder of such receipt.

(j) Warehouse receipts representing commodities that have been shipped by rail or by barge, must be accompanied by supplemental certificates completed under paragraph (g) of this section.

(k) If the warehouse issues an EWR for the commodity, the producer must notify the EWR provider to make CCC the holder of the EWR and to secure an affirmation verifying that CCC has been made the holder of the EWR.

[67 FR 63511, Oct. 11, 2002, as amended at 74 FR 15654, Apr. 7, 2009; 75 FR 19193, Apr. 14, 2010; 80 FR 124, 130, Jan. 2, 2015]

§ 1421.108 Transfers and reconcentrations.

(a) Upon request by the producer before transfer, the county committee may approve the transfer of a quantity of a commodity that is pledged as collateral for a farm-stored MAL to a warehouse-stored MAL at any time during the MAL period.

(1) Transfer of all or part of the farm-stored MAL collateral to an authorized warehouse will be made through the pledge of warehouse receipts for the commodity placed under a warehouse-stored MAL. The loan rate of the transferred MAL will be the same as the loan rate of the original MAL. The

MAL quantity for the warehouse-stored MAL cannot exceed the loan quantity transferred from the farm-stored MAL.

(2) Any amounts due the producer will be disbursed by the FSA county service center.

(b) The producer must request county committee approval before the transfer of a warehouse-stored MAL to a farm-stored MAL. The county committee may approve the transfer of part or all of a warehouse-stored MAL at any time during the MAL period. Quantities pledged as collateral for a farm-stored MAL will be based on a measurement or a calculation of average production of wool and mohair, by a representative of the county office before approving the farm-stored MAL. The producer must immediately repay the amount by which the farm-stored MAL is less than the warehouse-stored MAL and charges plus interest on the shortage. The maturity date of the farm-stored MAL is the maturity date applicable to the warehouse-stored MAL that was transferred.

(c) Upon the filing of the Reconcentration Agreement and Trust Receipt by the producer and warehouse operator, CCC may, during the MAL period, approve the reconcentration in another authorized warehouse for all or part of a commodity that is pledged as collateral for a warehouse-stored MAL. Any such approval will be subject to the terms and conditions in the Reconcentration Agreement and Trust Receipt. A producer may, before the new warehouse receipt is delivered to CCC, pay CCC:

(1) The principal amount of the MAL and charges plus interest and applicable charges; or

(2) If CCC so announces, an amount less than the principal amount of the MAL and charges plus interest under the terms and conditions specified by CCC at the time the producer redeems the commodity pledged as collateral for such MAL.

[67 FR 63511, Oct. 11, 2002, as amended at 74 FR 15654, Apr. 7, 2009; 80 FR 124, 129, 130, Jan. 2, 2015]

§ 1421.109 Personal liability of the producer.

(a) When a producer obtains a commodity MAL, the producer agrees, in writing, not to:

(1) Provide an incorrect certification of the quantity or make any fraudulent or erroneous representation for the MAL;

(2) Remove or dispose of a quantity of commodity that is collateral for a CCC farm-stored MAL without prior written approval from CCC in accordance with § 1421.10; or

(3) Violate the terms and conditions of the note and security agreement, which will cause harm or damage to CCC in that funds may be disbursed to the producer for a quantity of a commodity that is not actually in existence or for a quantity on which the producer is not eligible. If CCC determines that the producer has violated the terms and conditions of the applicable forms prescribed by CCC, liquidated damages will be assessed on the quantity of the commodity that is involved in the violation.

(b) Such violations as referred to in paragraph (a)(3) of this section may include, but are not limited to:

(1) Incorrect certification;

(2) Unauthorized removal; and

(3) Unauthorized disposition.

(c) If the county committee determines that the producer has committed such violations, liquidated damages will be assessed on the quantity of the commodity that is involved in the violation.

(d) Liquidated damages assessed in accordance with this section will be determined by multiplying the quantity involved in the violation by 10 percent of the MAL rate applicable to the MAL note.

(e) When it has been determined that a violation of the terms and conditions of the note and security agreement has occurred as a result of unauthorized removal or disposition, CCC will determine the quantity of the commodity involved with respect to such violation and require the repayment of that portion of the MAL which is equivalent to such quantity of the commodity. In the case of these violations, if CCC determines the producer:

(1) Acted in good faith when the violation occurred, liquidated damages will be assessed according to paragraph (d) of this section and the commodity involved in the violation must be redeemed at the lesser of:

(i) The rate at which the MAL was disbursed, plus interest and any other charges assessed under the note and security agreement; or

(ii) The alternative repayment rate in effect on the date of the determination is issued by CCC that a violation has occurred, plus 15 percent of the original MAL rate as provided on the note and security agreement.

(2) Did not act in good faith when the violation was committed, liquidated damages will be assessed in accordance with paragraph (d) of this section, and administrative actions will be taken in accordance with paragraph (h) of this section. The MAL is required to be redeemed at the rate at which the MAL was disbursed, plus interest and any other charges assessed under the note and security agreement.

(f) When it has been determined that a violation of the terms and conditions of the note and security agreement has occurred as result of an incorrect certification, CCC will determine the quantity of the commodity involved with respect to such violation and require the repayment of that portion of the MAL which is equivalent to such quantity of the commodity. In the case of an incorrect certification, if CCC determines the producer:

(1) Acted in good faith when the violation occurred, liquidated damages will be assessed according to paragraph (d) of this section, and the commodity involved in the violation must be redeemed at the rate at which the MAL was disbursed, plus interest and any other charges assessed under the note and security agreement.

(2) Did not act in good faith about the violation, liquidated damages will be assessed in accordance with paragraph (d) of this section and administrative actions will be taken in accordance with paragraph (h) of this section. The MAL must be redeemed at the rate at which the MAL was disbursed, plus interest and any other charges assessed under the note and security agreement.

(g) If the producer fails to pay such amount within 30 days from the date of notification of violations as provided in paragraphs (e)(1) and (f)(1) of this section, the producer must immediately repay the MAL at the rate at which the MAL was disbursed plus interest, and any other charges assessed under the note and security agreement.

(h) For violations as specified in paragraphs (e)(2) and (f)(2) of this section, the producer must immediately repay the MAL at the rate at which the MAL was disbursed plus interest, and any other charges assessed under the note and security agreement. If the MAL has already been repaid, any market loan gain previously realized on the MAL, plus interest, is immediately due to CCC. CCC will demand delivery of any remaining MAL collateral if the MAL and any other charges and interest are not repaid within the 30 calendar day notification period specified in paragraph (g) of this section.

(i) If the county committee determines that the producer has committed a violation, the county committee will notify the producer in writing that:

(1) The producer has 30 calendar days to provide sufficient evidence and information regarding the circumstances that caused the violation, to the county committee; and

(2) Administrative actions will be taken.

(j) If the MAL is accelerated, the producer may not repay the MAL at the alternative loan repayment rate, unless authorized by CCC.

(k) Producers denied or rejected for a farm-stored MAL for any reason under this section may apply for a warehouse-stored MAL.

(l) The MAL plus other charges are payable to CCC upon demand if a producer:

(1) Makes any fraudulent representation in obtaining a MAL, maintaining, or settling a MAL; or

(2) Disposes or moves the MAL collateral without the approval of CCC.

(m) A producer is personally liable for damages resulting from a commodity delivered to or removed by CCC containing mercurial compounds, toxin producing molds, or other substances poisonous or harmful to humans or animals or property.

(n) If the amount disbursed under a MAL or in settlement of the MAL, exceeds the amount authorized by this part, the producer is liable for repayment of the excess and charges, plus interest.

(o) If the amount collected from the producer in satisfaction of the MAL is less than the amount required under this part, the producer is personally liable for repayment of the amount of such difference and charges, plus interest.

(p) In the case of joint MALs, the personal liability for the amounts specified in this section is joint and several on the part of each producer signing the note.

(q) Any or all of the liquidated damages assessed under this section may be waived if the CCC determines that the violation occurred inadvertently, accidentally, or unintentionally.

[67 FR 63511, Oct. 11, 2002, as amended at 68 FR 67939, Dec. 5, 2003; 71 FR 32424, June 6, 2006; 74 FR 15655, Apr. 7, 2009; 80 FR 124, 129, 130, Jan. 2, 2015]

§ 1421.110 Commodity certificate exchanges.

(a) For any outstanding marketing assistance loan, a producer may purchase a commodity certificate and exchange that commodity certificate for the marketing assistance loan collateral.

(b) The exchange rate is the lessor of:

(1) The loan rate and charges, plus interest applicable to the loan; or

(2) The prevailing world market price, as determined by CCC, or the alternative repayment rate for all other commodities, as determined by CCC.

(c) Commodity certificate exchanges may not be used when locking in a repayment rate under § 1421.10.

(d) Producers must request a commodity certificate exchange on or before loan maturity in person at the FSA county office that disbursed the marketing assistance loan by:

(1) Completing a written request on the form or providing the information as required by CCC;

(2) Purchasing a commodity certificate for the exact amount required to exchange the marketing assistance loan collateral; or

(3) Immediately exchanging the purchased commodity certificate for the outstanding loan collateral.

(e) Loan gains realized from a commodity certificate exchange are not subject to AGI provisions specified in part 1400 of this chapter.

[86 FR 70705, Dec. 13, 2021]

§ 1421.111 MAL settlement.

(a) The value of MALs at settlement will be determined by CCC on the following basis:

(1) For nonrecourse MALs, the schedule of premiums and discounts for the commodity, provided that if the value of the eligible delivered collateral at settlement is:

(i) Less than the amount due, the producer will pay to CCC the amount of such deficiency and charges, plus interest on such deficiency; or

(ii) More than the amount due, the amount of such excess will be paid to the producer or, if applicable, to the producer and applicable secured creditors of the producer.

(2) For recourse MALs, full repayment of principal plus interest is required. As specified in § 1421.113, recourse MAL collateral may not be delivered or forfeited to CCC in satisfaction of indebtedness.

(3) If CCC sells the commodity described in paragraph (a)(1) and (a)(2) of this section in settlement of the MAL, the sales proceeds will be applied to the amount owed as follows:

(i) For nonrecourse MALs, CCC will in all instances retain all proceeds obtained from the sale of the eligible commodity and will not make any payment of any amount of such proceeds to any party, including the producer who has satisfied their obligation under the MAL through delivery of the commodity to CCC. CCC will settle with the producer based on the quality and quantity of the commodity; or

(ii) For recourse MALs, the sales proceeds from the eligible collateral will be applied to the amount owed CCC by the producer. The producer will be responsible for any costs incurred by CCC in completing the sale and CCC will deduct the amount of these costs from the sale proceeds. If:

(A) The amount received from the sale of the collateral is less than the amount due, the producer will pay to CCC the amount of such deficiency and

costs, plus interest on the remaining amount owed; or

(B) The amount received from the sale of the collateral is greater than the sum of the amount due, the amount of such excess will be paid to the producer or, if applicable, to the producer and applicable secured creditor of the producer.

(b) Settlements made by CCC for eligible commodities that are acquired by CCC and that are stored in an authorized warehouse will be made on the basis of the entries in the applicable warehouse receipt, supplemental certificate, and accompanying documents.

(1) All eligible commodities that are stored in other than authorized warehouses must be delivered to CCC as CCC instructs. Settlement will be based on entries in the applicable warehouse receipt, supplemental certificate, and accompanying documents.

(2) For eligible loan commodities that are delivered from other than an authorized warehouse, settlement will be made by CCC on the basis of the basic MAL rate that is in effect for the commodity at the producer's customary delivery point, as determined by CCC.

(c) Settlements made by CCC for peanuts acquired by CCC and stored in an authorized warehouse will be based on the settlement value at the time of the loan disbursement and the entries in the applicable warehouse receipt, supplemental certificate, and accompanying documents subject to adjustments for changes in quality and other factors.

(1) All eligible commodities that are stored in other than authorized warehouses will be delivered to CCC as CCC instructs. Settlement will be based on entries in the applicable warehouse receipt, supplemental certificate, and accompanying documents.

(2) For eligible loan commodities that are delivered from other than an authorized warehouse, settlement shall be made by CCC on the basis of the basic marketing assistance loan rate that is in effect for the commodity at the producer's customary delivery point, as determined by CCC.

(d) For peanuts forfeited to CCC, the Secretary will pay reasonable storage, handling, and other associated costs for all peanuts pledged as collateral that are forfeited under this section.

(e) In all cases, settlements may be adjusted for changes in quality and other factors affecting the value of the commodity.

(f) Premiums and discounts will apply to all eligible loan commodities that are forfeited and delivered to CCC. There will not be any additional adjustments for peanuts at settlement, because such premiums and discounts will be accounted for when a peanut MAL is made.

(g) If a deficiency exists after the collateral securing a nonrecourse MAL has been delivered to CCC or a recourse MAL sold under a local sale, a receivable for such deficiency will be established as specified in part 1403 of this chapter.

(h) CCC will not assume any loss in quantity or quality of the loan collateral for any farm-stored MALs.

[67 FR 63511, Oct. 11, 2002, as amended at 71 FR 32425, June 6, 2006. Redesignated and amended at 74 FR 15655, Apr. 7, 2009; 80 FR 125, 129, 130, Jan. 2, 2015]

§ 1421.112 Foreclosure.

(a)(1) Upon maturity and nonpayment of a warehouse-stored MAL, title to the unredeemed collateral securing the MAL will immediately vest in CCC.

(2) Upon maturity and nonpayment of a farm-stored MAL, title to the unredeemed collateral will automatically transfer to CCC upon CCC demand.

(3) When CCC acquires title to the unredeemed collateral, CCC will not pay for any market value that such collateral may have in excess of the MAL indebtedness, (the unpaid amount of the note and charges plus interest).

(b) If the total amount due on a farm-stored MAL (the unpaid amount of the note plus charges, and interest) is not satisfied upon maturity, CCC may remove the commodity from storage, and assign, transfer, and deliver the commodity or documents evidencing title thereto when, how, and upon terms as CCC determines. Disposition may also be affected without removing the commodity from storage. The commodity may be processed before sale and CCC may become the purchaser of the whole

or any part of the commodity at either a public or private sale.

(1) The value of settlement for a farm-stored commodity removed by CCC from storage and will be as provided in § 1421.111.

(2) If a deficiency exists after the collateral is sold, a receivable for such deficiency will be established in accordance with part 1403 of this title.

[67 FR 63511, Oct. 11, 2002. Redesignated and amended at 74 FR 15655, Apr. 7, 2009; 80 FR 124, 130, Jan. 2, 2015; 86 FR 70705, Dec. 13, 2021]

§ 1421.113 Recourse MALs.

(a) CCC will make recourse MALs available to eligible producers of high moisture corn, high moisture grain sorghum, commodities that fall within acceptable levels of contamination and remain merchantable, and other eligible loan commodities as determined by the Deputy Administrator, Farm Programs.

(b) Repayment is required to be paid in full at principal plus interest on or before the loan maturity date.

(c) Recourse MAL collateral may not be delivered or forfeited to CCC in satisfaction of the loan indebtedness.

[67 FR 63511, Oct. 11, 2002. Redesignated at 70 FR 33799, June 10, 2005. Redesignated and amended at 74 FR 15655, Apr. 7, 2009; 80 FR 126, 129, Jan. 2, 2015; 86 FR 70705, Dec. 13, 2021]

Subpart C—Loan Deficiency Payments

SOURCE: 67 FR 63511, Oct. 11, 2002, unless otherwise noted.

§ 1421.200 Applicability.

(a) During the MAL availability period, LDPs will be made available to eligible producers when the alternative repayment rate is less than the applicable county loan rate.

(b) To be eligible to receive LDPs a producer must:

(1) Comply with all MAL eligibility including beneficial interest requirements.

(2) Agree to forgo obtaining such MAL, if applicable; and

(3) File in person, by mail or electronically a request for payment on a form prescribed by CCC; and

(4) Otherwise comply with all program requirements.

(c)(1) A producer must submit to the FSA Service Center a completed request for a LDP on forms prescribed by CCC. This submission must be received on or before the date beneficial interest is lost in the commodity and before the final loan availability date for the commodity. Such completed and submitted forms indicate the producer's intentions and further provide the terms and conditions of the LDP program. If all or any of the provisions of this paragraph are not met by the producer, the producer may not obtain the LDP benefit.

(2) With respect to a request for a LDP for unshorn pelts, a completed request for such a payment must be submitted on or before the earlier of the date of slaughter of the lamb or the loss of beneficial interest in the lamb or the unshorn pelt produced from the lamb. In addition, the lamb must have been owned for not less than 30 days prior to the date such application is filed with CCC and must have been slaughtered for personal use, or sold for slaughter and slaughtered within 10 calendar days after the sale.

(d) For unshorn pelts, the lamb must be owned for a period of not less than 30 days in advance of the application and sold for immediate slaughter or slaughtered for personal use. Producers must submit acceptable production evidence to CCC under § 1421.12 at the time of request. Producers who do not sell lambs for immediate slaughter are ineligible for a LDP.

(e) AGI requirements apply as specified in part 1400 of this chapter.

[67 FR 63511, Oct. 11, 2002, as amended at 71 FR 32425, June 6, 2006; 74 FR 15655, Apr. 7, 2009; 80 FR 126, 129, Jan. 2, 2015; 86 FR 70706, Dec. 13, 2021]

§ 1421.201 Loan deficiency payment rate.

(a) The LDP rate for a crop will be the amount by which the loan rate for the crop exceeds the rate at which CCC has announced that producers may repay their MALs as specified in § 1421.10.

(b) The LDP rate will be the rate in effect in the county where the commodity was marketed or stored on the date:

(1) The request for benefits is received in the FSA Service Center, if the producer retains beneficial interest in the quantity on that date.

(2) Beneficial interest was lost, as determined by CCC and as provided in §§ 1421.6 and 1421.13, if on the date the request for benefits was received in the FSA Service Center the producer no longer has beneficial interest in the requested quantity.

(3) The commodity is delivered, if the producer elects to receive the LDP rate based on the date of delivery.

(c) The LDP applicable to such crop will be computed by multiplying the LDP rate, as determined under paragraph (b) of this section, by the quantity of the crop the producer is eligible to pledge as collateral for a nonrecourse MAL for which the LDP is requested.

[67 FR 63511, Oct. 11, 2002, as amended at 71 FR 32425, June 6, 2006; 71 FR 51426, Aug. 30, 2006; 74 FR 15655, Apr. 7, 2009; 80 FR 126, 130, Jan. 2, 2015]

§ 1421.202 Loan deficiency payment quantity.

(a) A LDP may be based on 100 percent of the net eligible quantity specified on acceptable evidence of production of the commodity certified as eligible for LDP if such production evidence is provided for such commodity under § 1421.12.

(b) Two or more producers may obtain a single joint LDP for commodities that are stored in the same storage facility. Two or more producers may obtain individual LDPs for their share of the commodity that is stored commingled in a farm storage facility with commodities for which an LDP has been requested and will be liable for any damage incurred by CCC for incorrect certification of such commodities under § 1421.203.

(c) Two or more producers may obtain a single joint LDP for commodities that are stored in an authorized or unauthorized warehouse if the acceptable documentation representing an eligible commodity for which a LDP is requested is completed jointly for such producers.

[67 FR 63511, Oct. 11, 2002, as amended at 74 FR 15656, Apr. 7, 2009; 80 FR 126, 130, Jan. 2, 2015]

§ 1421.203 Personal liability of the producer.

(a) When a producer requests a LDP, the producer agrees:

(1) When signing the LDP Agreement and Request, as applicable, that the producer will not provide an incorrect certification of the quantity or make any fraudulent representation, that CCC will rely upon when determining eligibility for a LDP; and

(2) That violation of the terms and conditions of the LDP request, as applicable, will cause harm or damage to CCC in that funds may be disbursed to the producer for a quantity of a commodity that is not actually in existence or for a quantity on which the producer is not eligible. If CCC determines that the producer has violated the terms and conditions of the applicable forms prescribed by CCC, liquidated damages will be assessed on the quantity of the commodity that is involved in the violation.

(b) Liquidated damages assessed in accordance with this section will be determined by multiplying the quantity involved in the violation by 10 percent of the LDP.

(c) If CCC determines that the producer:

(1) Acted in good faith when the violation occurred, liquidated damages will be assessed according to paragraph (b) of this section and the producer must repay the LDP applicable to the loan deficiency quantity involved in the violation and charges, plus interest applicable to the amount repaid. If the producer fails to pay such amount within 30 days from the date of notification the producer must repay the entire LDP and any other charges plus interest.

(2) Did not act in good faith when the violation was committed, liquidated damages will be assessed in accordance with paragraph (b) of this section and the producer shall repay the entire LDP and any other charges plus interest.

(d) CCC may waive the liquidated damages assessed according to paragraph (b) of this section if the CCC determines that the violation occurred inadvertently, accidentally, or unintentionally.

(e) If, for any violation to which paragraph (b) of this section applies, the county committee determines that CCC's interest is not or will not be protected, the county committee will:

(1) Accelerate the maturity date on the producer's outstanding farm-stored MALs;

(2) Deny future farm-stored MALs for the current and 2 following crop years;

(3) Deny LDPs for the current and 2 following crop years unless production evidence is presented to CCC. Depending on the severity of the violation, the county committee may deny future farm-stored MALs and LDPs without production evidence.

(f) If the county committee determines that the producer has committed a violation, the county committee will notify the producer in writing that:

(1) The producer has 30 calendar days to provide sufficient evidence and information regarding the circumstances that caused the violation, to the county committee; and

(2) Administrative action will be taken under this section.

(g) If the amount disbursed under LDPs exceeds the amount authorized by this part, the producer is liable for repayment of such excess and liquidated damages, plus interest.

(h) In the case of joint LDPs, the personal liability for the amounts specified in this section is joint and several on the part of each producer signing the LDP application.

(i) Any or all of the liquidated damages assessed under the provisions of paragraph (b) of this section may be waived as determined by CCC.

[67 FR 63511, Oct. 11, 2002, as amended at 71 FR 32425, June 6, 2006; 74 FR 15656, Apr. 7, 2009; 80 FR 126, 130, Jan. 2, 2015]

Subpart D—Grazing Payments for Wheat, Barley, Oats, and Triticale

SOURCE: 66 FR 13404, Mar. 6, 2001, unless otherwise noted. Redesignated at 67 FR 63511, Oct. 11, 2002.

§ 1421.300 Applicability.

(a) The regulations in this subpart are applicable to the eligible acreage planted to wheat, barley, oats, or triticale that is grazed by livestock and not harvested in any other manner. This subpart specifies the terms and conditions under which a grazing payment will be made by CCC in lieu of an LDP.

(b) The form that is used in administering these payments is available in State and county FSA offices and will be prescribed by CCC.

[66 FR 13404, Mar. 6, 2001. Redesignated and amended at 67 FR 63511, 63523, Oct. 11, 2002; 74 FR 15656, Apr. 7, 2009; 80 FR 127, 130, Jan. 2, 2015]

§ 1421.301 Administration.

(a) This subpart will be administered by the FSA under the general direction and supervision of the Executive Vice President, CCC or designee. The program will be carried out in the field by State and county FSA employees under the general direction and supervision of the State and county FSA committees.

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations in this part, as amended or supplemented.

(c) The State committee will take any action required by this part which has not been taken by the county committee. The State committee will also:

(1) Correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with the regulations of this part; or

(2) Require a county committee to withhold taking any action which is not in accordance with the regulations of this part.

(d) No delegation herein to a State or county committee will preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

(e) The Deputy Administrator for Farm Programs (DAFP), FSA, may authorize State and county committees

to waive or modify deadlines and other program requirements in cases where timeliness or failure to meet such other requirements does not adversely affect the operation of the program. In addition, DAFP may establish other conditions for payments that will assist in achieving the goals of the program and may include such provisions in the program agreement or other program documents.

[66 FR 13404, Mar. 6, 2001, as amended at 80 FR 127, 130, Jan. 2, 2015]

§ 1421.302 Eligible producer and eligible land.

(a) To be an eligible producer for a payment under this subpart, the person must be a producer of wheat, barley, oats, or triticale in the applicable crop years. Also, to be an eligible producer, the person must meet all other qualifications for payment that are set out in this subpart, set out in parts 12, 718, 1400, and 1405 of this title. A person will not be considered the producer of the crop unless that person was responsible for the planting of the crop and had control and title of the crop at all times, including, at the time of planting and the time of the request for a payment under, this subpart.

(b) A minor may participate in the program if the right of majority has been conferred on the minor by court order or by statute, or if the minor participates through a guardian authorized to act on the minor's behalf in these matters. Alternatively, a minor may participate if the program documents are all signed by an acceptable (to CCC) guarantor or if bond, acceptable to CCC, is provided by a surety.

(c) For the crop to be eligible, the crop, in addition to other standards that may apply, must be grown on land that is classified as ''cropland'' in FSA farm records or on land that FSA determines has been cropped in the last 3 years except that the land may also qualify if the land is committed to a crop rotation, normal for the locality, that includes harvesting the subject crop for grain. These rules are designed to assure, to the extent practicable, the available payment did not produce plantings that otherwise would not have occurred and the CCC may deny payments in any instance in which there is reason to believe that the planting was done for that purpose. To that end, if the commodity involved has not been previously grown by the producer or is not one which is not predominately produced locally, the producer must submit evidence of seed purchases for planting the commodities and other evidence deemed needed or appropriate by the COC in order to assure that the program goals are made and that the land was not planted to an eligible commodity simply to obtain a payment. Also, the land to be eligible must, for the year involved, be grazed and cannot, during the crop year, be harvested at any time for any purpose, except as determined by the Deputy Administrator to accommodate producers with a history of double-cropping when the crop to be harvested is not the crop for which a payment is to be made under this subpart. Land will be considered grazed only to the extent that the crop on the land is consumed in the field as live plants by livestock for the normal period of time for grazing in the area.

(d)(1) A producer must, at the time the LDP agreement is signed, meet all other eligibility criteria for obtaining LDPs including AGI requirements as specified in part 1400 of this chapter.

(2) For producers of triticale who obtain a payment under this subpart the producer must enter into an agreement with CCC to forgo any harvesting of triticale on the acreage for which such a payment is made.

(e)(1) No payment will be made if the crop could not have been harvested because of weather conditions or any other reason.

(2) The producer must retain the control and title of the commodity for which the payment is sought from the date of planting through the date on which mechanical harvesting of the crop would normally occur.

(f) Producers who elect to graze their wheat, barley, oats, or triticale will not be eligible for an indemnity under the Federal Crop Insurance Program provisions of Chapter IV of this title or a payment under the Noninsured Crop

Assistance Program authorized under part 1437 of this chapter.

[66 FR 13404, Mar. 6, 2001. Redesignated and amended at 67 FR 63511, 63523, Oct. 11, 2002. Redesignated and amended at 74 FR 15656, Apr. 7, 2009; 80 FR 127, Jan. 2 2015; 86 FR 70706, Dec. 13, 2021]

§ 1421.303 Time and method for application.

(a) Application for the program provided in this subpart must be received, at the FSA county office that is responsible for administering programs for the farm, no earlier than the date on which eligible crops would normally be harvested and no later than the final loan availability date as determined in accordance with § 1421.5.

(b) The application must describe the land to be grazed and, in accordance with standards set by CCC, the tract or field location.

(c) The COC will determine the first harvest date, taking into account the date on which such crops are normally harvested locally for any purpose.

(d) Where multiple producers are involved, the application must specify each producer's share in the crop.

(1) A producer may only receive payments under this subpart that are commensurate with that producer's share in the crop as specified on the application.

(2) Should a person who is entitled to receive a payment under this subpart die, that payment, as earned, may be made to other persons as provided for in the rules specified in part 707 of this title.

(3) Third parties may also receive payments to the extent provided for in part 707 of this title for other situations involving an incapacitation of the producer.

(e) Refusals to allow CCC to verify information on any application or report used for this subpart can result in program ineligibility and producers must provide CCC, FSA, and its agent access to the property involved and to all records as may be relevant to the making of payments under this subpart.

(f) False statements will disqualify the producer from the program and may be subject to other sanctions including criminal sanctions.

[80 FR 127, Jan. 2, 2015]

§ 1421.304 Payment amount.

(a) The grazing payment rate will be the LDP in effect for the farm on the date which the producer submits a complete program application to CCC. For triticale, the grazing rate will be equal to the LDP rate in effect for the predominant class of wheat in the county where the farm is located as of the date the application is filed.

(b) The payable units of production will be computed by multiplying the eligible grazed acres by the applicable yield determined under paragraph (c) of this section.

(c) The payment yield will be:

(1) The yield for the loan commodity on the farm in effect for the calculation of Price Loss Coverage as specified in part 1412 of this chapter;

(2) For a farm for which Agriculture Risk Coverage is elected, the payment yield that would otherwise be in effect for that loan commodity on the farm in the absence of such election as specified in part 1412 of this chapter; or

(3) In the case of a farm for which no payment yield is established for the loan commodity on the farm, an appropriate yield as determined by the COC.

(d) Payments can be withheld until the actual grazed acreage is verified and justified in connection with any other reports filed with FSA with respect to the farm (or filed with some other person or agency) and until all other necessary information is obtained. CCC may require such other verification as it deems appropriate to assure that the program goals are met.

(e) To receive the payment, the eligible producer must submit a request for payment on an application form as prescribed by CCC or FSA. The application may be obtained from the county FSA office, or from the USDA or FSA web site in the Internet. The form must be submitted to the county by the close of business on or before March 31 of the calendar year following the year the crop is normally harvested.

(f) The producer will be ineligible for payments under this subpart if any discrepancies between the reported acreage on the program form and other reports of acreage by the producer are not resolved by a date set by CCC.

[66 FR 13404, Mar. 6, 2001. Redesignated and amended at 67 FR 63511, 63524, Oct. 11, 2002. Redesignated and amended at 74 FR 15656, Apr. 7, 2009; 80 FR 127, 130, Jan. 2, 2015; 86 FR 70706, Dec. 13, 2021]

§ 1421.305 Misrepresentation and scheme or device.

(a) A producer is ineligible to receive payments under this subpart if it is determined by DAFP, the State committee, or the county committee to have:

(1) Adopted any scheme or device which tends to defeat the purpose of this program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

(b) Any funds disbursed pursuant to this subpart to a producer engaged in a misrepresentation, scheme, or device, or to any other person as a result of the producer's actions, will be refunded with interest together with such other sums as may become due. Any producer engaged in acts prohibited by this section and any person receiving payment under this subpart, as a result of such acts, will be jointly and severally liable for any refund due under this section and for related charges. The remedies provided in this subpart will be in addition to other civil, criminal, or administrative remedies which may apply.

[66 FR 13404, Mar. 6, 2001. Redesignated at 74 FR 15656, Apr. 7, 2009; 80 FR 127, 130, Jan. 2, 2015]

§ 1421.306 Refunds; joint and several liability.

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under this application, of this subpart, and if any refund of a payment to CCC becomes due for that or other reason in connection with the application, of this subpart, all payments made under this subpart to any producer are to be refunded to CCC together with interest as determined in accordance with paragraph (c) of this section and late-payment charges as provided for in part 1402 of this chapter.

(b) All persons listed on an application are jointly and severally liable for any refund due in connection with that application and for any related charges which may be determined to be due for any reason.

(c) Interest is applicable to refunds required from the producer. Interest will be charged at the rate of interest which the United States Treasury charges CCC for funds, as of the date CCC made such benefits available. Interest will accrue from the date such benefits were made available to the date of repayment but the interest rate will increase to reflect any increase in the rate charged to CCC by Treasury for any percent of time for which the interest assessment is collected. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any action of the producer.

(d) Late payment interest will be assessed on refunds in accordance with the provisions of, and subject to the rates in part 1403 of this chapter.

(e) Producers must refund to CCC any excess payments made by CCC with respect to any application in which they have an interest. Such refund will be subject to interest at the same rate that applies to other refunds.

[66 FR 13404, Mar. 6, 2001. Redesignated and amended at 74 FR 15656, Apr. 7, 2009; 80 FR 128, 130, Jan. 2, 2015]

Subpart E—Designated Marketing Associations for Peanuts

SOURCE: 70 FR 33799, June 10, 2005, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to subpart E of part 1421 appear at 74 FR 15656, Apr. 7, 2009.

§ 1421.400 Applicability.

(a) This subpart specifies the terms and conditions under which an entity that is a DMA of peanut producers, or a subsidiary of such an entity, may qualify as a DMA, as defined in § 1421.3. DMAs may process peanut MALs and LDPs on behalf of producers.

(b) This subpart only applies with respect to peanut MALs and peanut LDPs.

[80 FR 128, Jan. 2, 2015]

§ 1421.401 DMA responsibilities.

(a) DMAs are eligible to process the MALs and LDPs provided for in this part only for peanut producers and only if the DMA and the producers and peanuts meet all eligibility criteria set out in this part, including, but not limited to, the DMA eligibility provisions of this subpart. In carrying out those functions, DMAs must:

(1) Prepare and execute the appropriate CCC peanut MAL and LDP application documents;

(2) Determine whether producers and the commodity are eligible for MALs and LDPs, including whether the otherwise eligible peanuts are free and clear of all liens which DMAs determine by performing lien searches at DMAs expense;

(3) Instruct the holder of EWRs, if applicable, to notify the EWR provider to amend the EWR to show CCC is the holder;

(4) Receive MAL and LDP documents from a DMA Service County Office;

(5) Disburse peanut MALs and LDP proceeds to eligible producers;

(6) Prepare and execute documents for MAL repayments;

(7) Collect MAL repayments from producers or buyers and transmit those funds to CCC;

(8) Transmit documents to render forfeited collateral to CCC; and

(9) Collect data for reporting to CCC as required by CCC;

(b) As part of performing the responsibilities in paragraph (a) of this section, DMAs:

(1) Become knowledgeable of and follow the procedures in CCC and FSA peanut MAL and LDP regulations, applicable notices published in the FEDERAL REGISTER, applicable FSA peanut program handbooks and amendments thereto, and any applicable notices or instructions issued by FSA and the Agricultural Marketing Service.

(2) Make and service CCC peanut MALs and LDPs, only upon the presenting by producers or their agents of the warehouse receipts, unless otherwise directed by CCC.

(3) Attend, at the DMAs expense, DMA peanut MAL, and LDP program training offered by CCC.

(4) Provide sufficient personnel, computer hardware, computer communications systems, and software, as determined necessary by CCC, to administer the peanut MAL and LDP program.

[70 FR 33799, June 10, 2005. Redesignated and amended at 74 FR 15656, Apr. 7, 2009; 80 FR 128, Jan. 2, 2015]

§ 1421.402 DMA eligibility to process MALs and LDPs.

(a) A DMA is eligible to process any MAL or LDPs only if approved in advance to handle such matters by the Farm Service Agency pursuant to this part; and

(1) The DMA meets the financial requirements and other requirements in this subpart and part;

(2) The DMA is comprised solely of peanut producers or is a subsidiary of an organization of peanut producers;

(3) The DMA is not controlled directly or indirectly by a person or entity that acquires peanuts for processing or crushing through a business involved in buying and selling peanuts or peanut products;

(4) The DMA does not take title at any time to any peanuts for which it processes MALs or LDPs, irrespective of whether such title is taken before or after those activities are performed. If such title or interest is taken, the DMA is required to return to CCC the full amount of the CCC proceeds disbursed with respect to the peanuts; and

(5) The DMA meets any additional requirements imposed by CCC or FSA.

(b) The DMA's activities under this part are to be conducted only with respect to peanuts and only for producers and peanuts that meet all the eligibility requirements of this part. Such requirements include, but are not limited to, the requirement of § 1421.6 that the producer must have the beneficial interest in the peanuts while the peanuts are under MAL or when the LDP is received and must be the only person that has had such an interest in the peanuts prior to that time except as allowed by § 1421.6.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009; 80 FR 128, Jan. 2, 2015]

§ 1421.403 DMA approval.

(a) Entities wishing to apply to be a DMA enabled to perform MAL and LDP functions under this part for peanuts must submit an application for such approval to FSA in a form approved by CCC. That application will include the following:

(1) Two originals of a properly executed Designated Marketing Association agreement containing the terms and conditions prescribed by CCC.

(2) A financial statement of not less than 1 year old on the date submitted, including accompanying notes, schedules, or exhibits, certified by a certified public accountant as fairly representing the entity's financial condition.

(3) The entity's tax identification number.

(4) A copy of any applicable incorporating or partnership documents.

(5) The applicant entity's mailing address, electronic mail address, and telephone number and facsimile number.

(6) Any and all information requested by CCC regarding the DMAs materials, and equipment as CCC determines is necessary for the applicant to perform the services for which the approval to perform is sought.

(7) A narrative explaining how the proposed DMA entity or parent entity provides marketing services to peanut producers.

(8) Any additional information or financial security requested by the Agency.

(b) Applicants are responsible for notifying FSA when any changes occur to their operations requiring amendments to their application or supporting documents.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009; 80 FR 128, Jan. 2, 2015]

§ 1421.404 Financial security.

(a) In order to be approved to handle MALs and LDPs, a DMA must:

(1) Have a current net worth ratio of at least 1:1; and

(2) Provide security equal to $100,000 or a greater amount as determined by CCC.

(b) [Reserved]

[80 FR 128, Jan. 2, 2015]

§ 1421.405 Liability.

(a) DMAs must indemnify CCC against any claim or loss by CCC in connection with the processing of any MALs or LDPs or other activity carried out by the DMA. If CCC pays any claim or suffers a loss as a result of the actions of DMA, or if a refund otherwise becomes due to CCC, payment in the amount of such losses or refund, plus interest, may be set-off by CCC from the financial security provided by DMA as required by this subpart. If the amount of the loss exceeds the amount of the financial security, such amount is paid to CCC by DMA with interest. Interest and other charges may be assessed consistent with §1403.9 of this chapter. Remedies provided in this section or part are in addition to other remedies or penalties, whether civil, criminal or otherwise, as may apply.

(b) If a DMA becomes liable to CCC under paragraph (a) of this section or otherwise in connection with this subpart, such DMA is not eligible to process an LDP or MAL until the receivable amount owed CCC is paid in full, and the full amount of financial security required by this subpart has been restored.

[80 FR 128, Jan. 2, 2015]

§ 1421.406 Reporting requirements.

(a) *Report of changes.* A DMA must furnish information to CCC within thirty calendar days relating to any substantial change in the DMA operations including but not limited to the following:

(1) A change in its articles of incorporation;

(2) A resolution affecting MAL or LDP operations.

(3) A change to the DMAs name, address, phone number, or related information on the DMA agreement.

(b) *Other Information.* The DMA must supply such additional information as CCC may request related to the DMAs continued approval by CCC to process MALs and LDPs under the authority provided in this subpart.

(c) *CCC request for information.* CCC may require a DMA to submit updated information, a new application, or a request for recertification whenever CCC becomes aware of any changes or has

any reason to be uncertain that the DMA is operating in a manner that is consistent with the information already submitted, or consistent with this part.

(d) *Annual recertification.* Within 4 months after the end of the DMAs fiscal year, a DMA must submit the following information to CCC:

(1) A current financial statement prepared according to generally accepted accounting principles;

(2) A report of audit or review of the financial statement conducted by an independent Certified Public Accountant. The accountant's report of audit or review must include the accountant's certifications, assurances, opinions, comments, and notes with respect to such financial statements.

(3) Additional financial security as determined by CCC, if the financial security on file with CCC does not meet current requirements or has expired.

(4) A report of changes as required under paragraph (a) of this section.

(e) *Activity report.* DMAs must provide CCC reports of MAL and LDP volume and benefit earnings made by the DMA for individual producers, and gains received on behalf of each peanut producer, in a format as directed by CCC.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009; 80 FR 128, Jan. 2, 2015]

§ 1421.407 Suspension and termination.

(a) *Suspension.* If CCC determines that a DMA is not in compliance with the DMA agreement CCC may suspend the DMA from making peanut MALs and LDPs until the DMA corrects the violation, or longer.

(b) *Termination.* The DMA agreement may be terminated by the DMA upon 30 calendar days' written notice to CCC. CCC may cancel the agreement at any time. Upon termination DMA must immediately cease processing MAL or LDP requests and documents except as needed to preserve CCC's position with respect to existing MALs or LDPs.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009; 80 FR 128, Jan. 2, 2015]

§ 1421.408 Prohibited activity.

(a) DMAs approved to handle MALs and LDPs under this subpart may not:

(1) Discriminate against or deny any producer from receiving MALs or LDPs because of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status for which they would otherwise be eligible under the statutes regulating the MAL and LDP program.

(2) Pool peanuts for the purpose of obtaining peanut MALs or LDPs from CCC.

(3) Pool the proceeds obtained from peanut MALs or LDPs made by CCC.

(4) Process farm-stored certified or measured MALs or LDPs unless authorized by CCC.

(5) Take title to any peanuts.

(6) Operate the DMA under the same entity and tax identification number of a CCC-approved CMA.

(7) Refuse services to producers because the DMA was not granted a power of attorney for purposes of executing MAL documents to obtain MALs for the producer, repaying the MAL for the producer, obtaining LDPs for the producer, or marketing the producer's peanuts.

(8) Adopt any scheme or device to circumvent the purpose of the peanut MAL and LDP program regulations, the regulation governing DMAs, or the DMAs agreement with CCC.

(9) Process MALs or LDPs for producers involved in a bankruptcy proceeding unless authorized by CCC.

(10) Process MALs or LDPs on ineligible peanuts.

(b) If the prohibitions of this section are violated FSA or CCC may take one or more of the actions authorized in this part or otherwise authorized.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009; 80 FR 128, Jan. 2, 2015]

§ 1421.409 Monitoring AGI.

DMAs are required to monitor their producers' AGIs and may not permit repayments with a market loan gain on peanut MALs or process peanut LDPs for those producers with annual AGI over the allowable limit as specified in part 1400 of this chapter.

[86 FR 70706, Dec. 13, 2021]

§ 1421.410 Recordkeeping requirements.

A DMA must maintain producer MAL and LDP paper documents and electronic records for an indefinite period unless otherwise notified by CCC.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009; 80 FR 129, Jan. 2, 2015]

§ 1421.411 Forms.

For purposes of conducting business related to this part, a DMA may use either current CCC forms or other forms approved by CCC. A DMA may perform functions under this part only when approval has been obtained by CCC.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009; 80 FR 129, Jan. 2, 2015]

§ 1421.412 Powers of attorney.

DMAs may hold a power of attorney from a producer allowing the DMA to sign MAL and LDP documents for the producer, but DMAs may obtain and hold such powers only in accordance with the requirements of CCC governing such powers.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009]

§ 1421.413 Liens and waivers.

(a) DMAs performing MAL-related functions pursuant to the authority in this subpart must determine, to the same extent as required for MALs handled by FSA county offices, whether a lien on the peanuts exists by performing or obtaining a lien search for all peanuts to be pledged for each MAL, except that the cost associated with such lien search and any necessary lien waivers is borne by the DMA. If a lien exists, the DMA must obtain, on an approved CCC form, a signed waiver from each lienholder with an interest in any such lien.

(b) [Reserved]

[80 FR 129, Jan. 2, 2015]

§ 1421.414 Producer request to a DMA for an MAL or LDP.

Peanut producers or their authorized agent may request that an MAL or LDP be processed by a DMA only if the DMA is approved under this subpart to process such a request and only if the producer supplies to the DMA:

(a) *Beneficial interest information.* Beneficial interest must be maintained by the producer according to §1421.6 for the peanuts to be eligible for MAL or LDP; accordingly, the producer must supply to the DMA such information as it needed to make that determination.

(b) *Warehouse receipts and lien information.* Producers must supply for all peanuts either individual paper warehouse receipts in the producer's name or an electronic warehouse receipt (EWR) number and provider's name. Producers must supply relevant lien information regarding the peanuts; however, the producer's obligation in this regard does not relieve the DMA from making the appropriate lien search.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009]

§ 1421.415 Processing marketing assistance loans.

(a) DMAs must take the following actions in the following order when an application for an MAL is filed:

(1) Make all the determinations that are a precondition for a MAL, including all producer eligibility requirements, lien determinations, and if requested by the producer, enter into a power of attorney agreement with the producer.

(2) If there is an EWR for the peanuts, instruct the current holder to notify the EWR provider to amend the EWR to show the DMA as holder. If a paper receipt is involved, the DMA must obtain the receipt (and later, at the appropriate time include the receipt in the documents delivered to the CCC).

(3) Complete all MAL forms.

(4) After the producer or the person holding the power of attorney for the producer signs MAL document, provide the signatory with copies of the documents.

(5) Where there is an EWR for the peanuts notify the EWR provider to make CCC the holder of the EWR and secure an affirmation verifying that CCC has been made the holder of the EWR.

(b) [Reserved]

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009; 80 FR 129, Jan. 2, 2015]

§ 1421.416 Processing loan deficiency payments.

(a) DMAs must take the following actions in the following order when an application for an LDP is filed:

(1) In addition to other determinations that are required, the DMA must determine whether the producer exceeds the AGI limits to allow the receipt of the LDP. If the producer is over the AGI limit the DMA cannot process the request.

(2) If EWRs are applicable for the peanuts for which the LDP is sought, the DMA must instruct the current holder to notify the EWR provider to amend the EWR to show that the peanuts were used to obtain an LDP;

(3) The DMA must insure that the producer or the person holding the power of attorney for the producer signs the LDP documents; and

(4) If the peanuts and the producer are eligible for the MAL and all other conditions have been met, the DMA may disburse funds to the producer subject to the time limits set out elsewhere in this part.

(b) The LDP rate applicable to the LDP request will be the rate in effect on the date the DMA receives the request except as may otherwise be provided for in this part.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009; 80 FR 129, Jan. 2, 2015; 86 FR 70706, Dec. 13, 2021]

§ 1421.417 Disbursing MAL and LDP proceeds.

(a) A DMA may request that CCC establish a drawdown account from which to disburse MAL and LDP amounts to producers and designate the financial institution they wish to use.

(b) CCC will determine whether a drawdown account is justified and the amount of the account.

(c) If there is no drawdown account, MAL and LDP proceeds are to be distributed to the producer within 3 work days from the date the DMA receives MAL or LDP proceeds from CCC, after deduction of authorized charges or fees for services. If there is a drawdown account, the MAL and LDP proceeds are to be distributed to the producer within 3 days of the completion of the application.

(d) The DMA is to assess charges and fees at the same rate for each producer that it serves.

(e) If a drawdown account is used, CCC will replenish the amount as necessary as it is drawn down.

(f) The DMA must notify CCC of the actual date on which the MAL is disbursed.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009; 80 FR 129, 130, Jan. 2, 2015; 86 FR 70706, Dec. 13, 2021]

§ 1421.418 Submitting MAL and LDP documentation to FSA.

(a) Until such time as an alternative FSA MAL- or LDP-making system is made available to DMAs, within 3 business days of any DMA prepared disbursement, the DMA must separately group and submit to FSA:

(1) MALs with the same disbursement date, peanut type, warehouse code, and State where peanuts were inspected; and

(2) LDPs with the same LDP rate, approval date, and peanut type.

(b) Each of the groups identified in paragraph (a) of this section must be submitted to FSA with the following documents:

(1) Individual paper warehouse receipts or EWR numbers, and the EWR provider's name representing the bundled MALs or LDPs.

(2) A form to itemize receipts, and other data, as required, or a pre-processed electronic file containing data required by FSA.

(c) FSA may process each DMA prepared MAL or LDP group for the volume of peanuts on multiple receipts as one MAL or LDP, waive the service fee to the DMA, and either hold MAL paper warehouse receipts, or verify that CCC is holder of the EWRs as of the date of disbursement.

(d) In the case of an MAL, if CCC was not the holder of the EWR on or before the date the DMA prepared MAL was disbursed, the applicable receipts will be rejected, and funds will not be distributed to the DMA drawdown account until CCC becomes the holder of the EWR.

(e) If MAL and LDP documentation is acceptable, FSA will disburse MAL or

LDP funds to the DMA, with appropriate supporting documentation.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009; 80 FR 129, 130, Jan. 2, 2015]

§ 1421.419 MAL or LDP servicing.

(a) The DMA is responsible for servicing MALs and are required to take the following actions:

(1) Send the producer a maturity notice letter before MAL maturity.

(2) Maintain the MAL or LDP documents according to FSA requirements.

(3) Transmit the necessary funds to repay the MAL to FSA.

(b) FSA will process the CCC release of paper receipts or EWRs where such a release is appropriate.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009;80 FR 129, 130, Jan. 2, 2015]

§ 1421.420 Inspections and reviews.

The books, documents, papers, and records of the DMA and parent company must be maintained for 6 years after the applicable crop year and be made available to CCC for inspection and examination at all reasonable times. At any time after an application is received, CCC has the right to examine all books, documents, papers, and determine whether the DMA is operating or has operated in accordance with the regulations in this part, any articles of incorporation, articles of association, partnership documents, agreements with producers, the representations made by the DMA in its application for approval, and, where applicable, its agreements with CCC. If the DMA is determined to be not complying with this part or any of its agreements, CCC will take appropriate action as provided in elsewhere in this subpart or other action CCC determines appropriate.

[80 FR 129, Jan. 2, 2015]

§ 1421.421 Appeals.

Parts 11 and 780 of this title apply to this subpart.

[70 FR 33799, June 10, 2005. Redesignated at 74 FR 15656, Apr. 7, 2009]

PART 1423—COMMODITY CREDIT CORPORATION APPROVED WAREHOUSES

Sec.

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AUTHORITY: 15 U.S.C. 714b and 714c.

SOURCE: 71 FR 35773, June 22, 2006, unless otherwise noted.

§ 1423.1 Applicability.

(a) This part sets forth the terms and conditions for approval of a warehouse operator by the Commodity Credit Corporation (CCC) to store and handle CCC interest commodities, which are owned by CCC and, as may be required under parts 1421, 1427 and 1435 of this title, with respect to commodities pledged as security for a loan made by CCC. CCC may require that a warehouse enter into a storage agreement under this part to store such commodities. The execution of such a storage agreement by CCC does not constitute a commitment that CCC will use the warehouse.

(b) By entering into a storage agreement with CCC, the warehouse operator agrees to comply with the terms and conditions of the storage agreement.

§ 1423.2 Administration.

On behalf of CCC, the Agricultural Marketing Service (AMS) will administer this part under the supervision of the AMS Administrator.

[84 FR 29033, June 21, 2019]

§ 1423.3 Definitions.

Active shipping order means an early shipping order or shipping order, as defined in this section, scheduled for a